



John's Copy
SS-1
General convey

STATE OF NEW MEXICO

OFFICE OF THE STATE ENGINEER

Santa Fe

John R. D'Antonio Jr., P.E.
State Engineer

BATAAN MEMORIAL BUILDING, ROOM 102
SANTA FE, NEW MEXICO 87504-5102
(505) 827-6120
FAX: (505) 827-6682

October 3, 2005

Mr. Randy Kirkpatrick
Executive Director
San Juan Water Commission
7450 E. Main Street, Suite B
Farmington, New Mexico 87402

RE: Response to San Juan Water Commission (SJWC) Letters Dated August 19, 2005, to the State Engineer and August 30, 2005, to Jim Sizemore

Dear Mr. Kirkpatrick:

The purpose of this letter is to address each of the issues you raised in the subject letters. I will address each issue raised under a separate heading.

Forty-Year Planning Authority

My July 19, 2005 letter to your Chairman suggested that the SJWC amend the SJWC's Joint Powers Agreement ("JPA") to include a provision granting forty-year water planning authority to the SJWC on behalf of all the member entities. In subsequent discussions between our respective legal counsels, we clarified that we would also be open to evaluating alternative options to an amendment, proposed by SJWC, and we requested that you provide the legal rationale for those proposed options. Unfortunately, your response has not led us to change our position that the SJWC's JPA does not provide the SJWC with forty-year water planning authority.

Your August 30 letter argues that existing provisions in the SJWC's Joint Powers Agreement (JPA) already give the SJWC authority to obtain and hold water rights for future use pursuant to New Mexico's forty-year water planning statute. However, our position remains unchanged that the SJWC does not qualify as an entity entitled to a forty-year water use planning period to acquire and hold unused water rights under NMSA 1978, §72-1-9. First, upon closer review it has come to our attention that all the members of the SJWC do not themselves have forty-year water planning authority. While the members of the San Juan Rural Water Users Association may individually, as member owned community water systems, now qualify for forty-year water planning periods under the statute, the San Juan Rural Water Users Association itself does not. Therefore, all the members of the SJWC do not possess, and cannot jointly exercise, this

power in common under the SJWC's JPA, as required under the Joint Powers Agreements Act, NMSA 1978, §§ 11-1-1 to 11-1-7. Second, to address your arguments regarding specificity, even if the San Juan Rural Water Users Association did possess that power on behalf of its members, our interpretation of the Joint Powers Agreements Act is that the SJWC can only exercise the powers specified in the JPA that the member entities possessed in common at the time of entering into the JPA. The SJWC's JPA was signed in March 1986. The forty-year water planning statute, NMSA 1978, §72-1-9 was not amended to include member owned community water systems until 1999, thirteen years after the JPA was entered into. Thus, all parties to the JPA did not hold the forty-year water planning power in common at the time they entered into the JPA. Therefore, I agree with the opinion of the OSE legal staff that not only must your JPA be amended to include forty-year planning authority as a specific power to be exercised by the SJWC for its member entities, but the member entities must also first all hold that authority in common in order for it to be included in the JPA.

Assignment of Permit No. 2883

Your August 19 letter requests that the State Engineer, pursuant to Section 15(a) of the Colorado Ute Indian Water Rights Settlement Act as amended by the Colorado Ute Settlement Act Amendments of 2000 ("the Act"), request the Secretary of the Interior to assign the Department of the Interior's interest in that portion of Permit No. 2883 that is currently covered by New Mexico State Engineer Permit Nos. 4487 through 4501 to the associated beneficiaries of the Animas-La Plata Project (ALP). The combined total amounts of diversion and depletion under the subject permits are 30,800 acre-feet and 15,400 acre-feet per year, respectively. Permit Nos. 4487 through 4497 and 4499 through 4501 have a total diversion of 20,800 acre-feet and a total depletion of 10,400 acre-feet per year, which depletion amount is equivalent to the total depletion amount allocated by the Act to the SJWC's member entities for uses under the ALP. The diversion amount can be up to twice the depletion amount pending approval of a return flow plan. Permit No. 4498 allows for an additional diversion of up to 10,000 acre-feet to make an additional depletion of up to 5,000 acre-feet per year by the SJWC entities under the water rights associated with Permit No. 2883.

Under the ALP as authorized by the Act, the original project water allocations for the SJWC member entities, the Navajo Nation and the La Plata Conservancy District (LPCD) were all reduced. New Mexico's schedule of anticipated depletions in the Upper Basin prepared for the proposed San Juan River Basin in New Mexico Navajo Nation Water Rights Settlement Agreement includes the reduced depletion amounts for project uses of 10,400 acre-feet per year for the SJWC entities, 2,340 acre-feet per year for Navajo Nation uses, and 780 acre-feet per year for LPCD uses. Also, the proposed Settlement Agreement, which was signed by the State of New Mexico and the Navajo Nation in April 2005 but still must be approved by the Congress, provides that any additional allocations of project water in New Mexico under Permit No. 2883 would be shared equally between the Navajo Nation and the SJWC's member entities, subject to approval of the Interstate Stream Commission. At this time, assignment of the subject rights from

the United States to the SJWC's member entities would be premature until these matters are finally resolved.

In addition, as presented to the SJWC by then State Engineer Thomas Turney at a SJWC meeting on August 21, 2001, the assignment of ALP water would have to be made to the member entities of the SJWC, not to the SJWC itself. It will be the member entities that will put ALP water to beneficial use; therefore, it would be to them that any assignments must be made, when appropriate. At such time, it will be important for the member entities to consider whether the assignment to them of a portion of the rights under Permit No. 2883 will result in their holding more water rights than they can reasonably put to beneficial use within forty years. The ALP beneficiaries can only protect water rights against loss due to non-use for a forty-year planning period, but Permit No. 2883 is not subject to such constraint as long as the right remains with the Secretary.

SJWC's Return Flow Plan and Crediting Program

In light of the fact that the SJWC does not individually own water rights, it is not eligible to receive return flow credits. Each member entity is entitled to request and receive consideration for return flow credits, including return flows from ALP water assigned to each of them.

Validity of Water Rights

As part of active water resource management throughout New Mexico, this office will administer water rights according to priority and continuous beneficial use. Your August 19 letter states that the SJWC has identified and developed a method to determine the amount of once-irrigated acreage that is now under impervious surfaces, such as driveways, streets and buildings, within the service areas of the SJWC's member entities. Your intention is that the member entities will file "claims" for the water associated with the paved-over land. The policy of this office is that any "claim" associated with such lands will require an application to transfer the purpose and place of use of any claimed irrigation water right. Prior to issuing any permit, the state engineer has a statutory duty to review the elements of the water right requested in the application in order to determine that the requested change in appropriation will not impair existing rights and will not be contrary to the conservation of water within the state nor be detrimental to the public welfare of the state. NMSA 1978, §§72-5-7, 72-5-23, 72-5-24. In reviewing a claim for an existing water right, the state engineer must apply the laws of New Mexico to see whether these claimed water rights would indeed be recognized as valid by a court before granting a permit, including whether the water rights may no longer be valid for failure to continuously put water to beneficial use. In most instances, any original irrigation rights for lands in the SJWC member entities' service areas were adjudicated by the Echo Ditch Decree, which explicitly states that the decreed rights are subject to forfeiture for non-use or other lawful cause. Paving over or constructing permanent structures on irrigated land without making application within a reasonable time to transfer the associated water rights to other places and/or purposes of use is also evidence

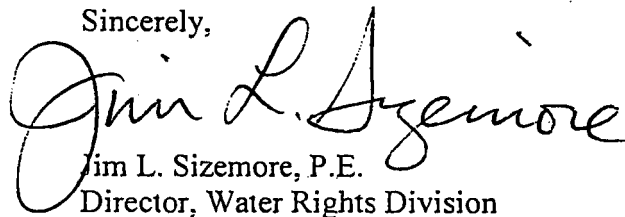
a court will consider of an intent to abandon. The burden of proof of the validity of each individual water right in these applications is on the water right owner.

Role of the SJWC

The SJWC also must address its role with respect to water rights and water use. A water right in New Mexico is established by legally putting water to continuous, beneficial use. A permit cannot be issued to an applicant that does not have the ability to put the water to beneficial use. Since the SJWC is not a water user, it cannot, by itself, apply to put water to beneficial use under a permit. The SJWC may file applications as a co-owner or trustee of a water right, so long as the entity putting the water to beneficial use is also included as a co-applicant.

I encourage you to continue to work Ms. Singer and me and my staff in the resolution of these and any other issues. I do not believe that a meeting between the SJWC and the State Engineer would be any more fruitful, at least at this time, than working meetings between the SJWC and OSE staff.

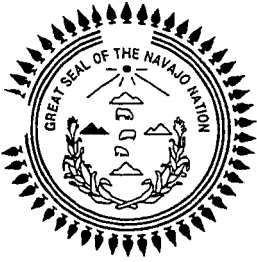
Sincerely,

A handwritten signature in cursive script that reads "Jim L. Sizemore".

Jim L. Sizemore, P.E.
Director, Water Rights Division

JLS:jls

cc: John Romero, Director, WRAP
Robert Genualdi, District V
John Longworth, Chief, Water Use Bureau
Arianne Singer, LAP



NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

LEVON B. HENRY
ATTORNEY GENERAL

BRITT E. CLAPHAM, II
DEPUTY ATTORNEY GENERAL

OCT 19 2001
OFFICE OF THE
STATE ENGINEER
A.S.D. SANTA FE, NM

October 17, 2001

Thomas C. Turney, P.E.
New Mexico State Engineer
P.O. 25102
Santa Fe, NM 87504-5102

Re: San Juan Water Commission's Application to Appropriate Surface Water

Dear Mr. Turney:

The Navajo Nation is in receipt of a copy of the San Juan Water Commission's Application for Permit Pursuant to NMSA § 72-5-33 ("Application") and the accompanying letter filed with the Office of the State Engineer on January 29, 2001. Notwithstanding the fact that this matter has not been published pursuant to NMSA § 72-5-5(A), by this letter the Navajo Nation objects to the Application. The Application should be denied for several reasons.

As a preliminary matter, the State Engineer should take notice of the fact that the 1995 amendments to NMSA § 72-5-33 was drafted by and supported by the San Juan Water Commission ("Commission"). No applications have been made by any other entity under the provisions of this section since the legislation was intended to apply solely to the San Juan Water Commission. Therefore, any ambiguities concerning NMSA § 72-5-33, or any questions concerning its applicability to the proposed Application should be construed against the Commission.

- 1. The Animas-La Plata Project Has Not Been Deauthorized; Therefore, the Water Sought by the Commission Has Not Been Returned to the State of New Mexico Pursuant to NMSA § 72-5-33 .**

The San Juan Water Commission seeks to appropriate water pursuant to NMSA § 72-5-33; however, the provisions of that section specify that water withheld for federal reclamation projects becomes public water subject to general appropriation only if the planned federal reclamation project will not be constructed. The provisions of that section do not become effective unless "the United States Congress, the Secretary of the Interior or a court of competent jurisdiction, in a nonappealable final judgment, determines that the planned federal reclamation project will not be constructed." NMSA § 72-5-33(A)(2). None of those conditions have occurred. The Application is premised on the assumption that Congress deauthorized the features of the Animas-La Plata Project ("ALP") that would have utilized the 15,080 acre-feet per year. Opponents of ALP asked Congress to deauthorize the project as part of the Colorado Ute Water Rights Settlement Act of 2000; *S. 2508 and H.R. 4577*, approved December 15, 2000. Congress declined to deauthorize the project; indeed, the Commission concedes that Congress specifically noted that the authorized project facilities constitute the "Animas-La Plata Project." Since there has been no determination that the project "will not be constructed" pursuant to NMSA § 72-5-33(A)(2), the Application must be denied.

OSE-1105

2. Portions of the Water Held by Permit No. 2883 Were Intended for the Navajo Nation.

The water held by Permit No. 2883 was designated for the Animas-La Plata Project. The San Juan Water Commission and the Navajo Nation were both intended beneficiaries of ALP as previously conceived and as authorized by Congress. In the project described in the 1996 Supplement to the Final Environmental Impact Statement for ALP, Navajo Nation was to receive 7600 acre-feet and the San Juan Water Commission was to receive 30,800 acre-feet of the annual project water supply. Under the modified ALP, as authorized by Congress, each of the participants agreed to reduce their water supply so that the overall project depletion would not exceed 57,100 acre-feet per year, the depletion previously approved by the U.S. Fish & Wildlife Service pursuant to its Biological Opinion dated October 25, 1991. As a result, the Navajo water supply was reduced to 4680 acre-feet, with an annual depletion of 2340 acre-feet. The water for the San Juan Water Commission was reduced to 20,800 acre-feet with an annual depletion of 10,400 acre-feet. Thus, at least 2920 acre-feet of the water remaining in Permit No. 2883 was reserved for the Navajo Nation. In addition, because the Navajo Nation's ALP water supply was reduced by a greater percentage than the supply for the San Juan Water Commission (38.42% versus 32.47%), the Navajo Nation should be entitled to a greater amount of the undeveloped water held by Permit No. 2883. The Commission should not be permitted to "grab" all the water remaining under Permit No. 2883.

3. The Proposed Appropriation Is Not Consistent with Permit No. 2883.

Permit No. 2883 authorizes the United States to appropriate 49,510 acre-feet per year to irrigate 20,600 acres of land as described in the Explanatory Statement attached to the original permit. The Commission's Application is for water to be used for "Municipal and Industrial purposes," inconsistent with the purpose of Permit No. 2883. NMSA § 72-5-33 does not authorize the entity seeking the appropriation to change the place and purpose of use of the water. Moreover, Permit No. 2883 limits the water supply to the Animas and La Plata Rivers. The proposed Application seeks to include the San Juan River as a water supply. NMSA § 72-5-33 does not authorize the application to change the water supply from the original permit.

4. The Commission has not Demonstrated a Need for the Proposed Application.

Neither the Application nor the accompanying letter make any reference to an actual need for the water sought to be appropriated. In fact, the Application states that the Commission "will hold the water rights described in this application until such time any Joint Powers Agreement signatory party demonstrates the need for a portion of this water." It is axiomatic that no application to appropriate water can be granted without a showing that the water will be put to beneficial use. N.M. Const., art. XVI § 3; *State ex rel. Erickson v. McLean*, 62 N.M. 264, 308 P.2d 982 (1957). Not only has the Commission failed to demonstrate a need for the water, the Commission will receive 20,800 acre-feet of additional water as a result of the recent legislation authorizing the construction of the Animas-La Plata Project. The proposed application is nothing more than an attempt to "grab" additional water. The Commission is not a municipality; nevertheless, municipalities are not entitled to water greatly in excess of their current needs. *Jicarilla Apache Tribe v. United States*, 657 F.2d 1126 (10th Cir. 1981). The San Juan Water Commission's application is based on mere speculation, not on reasonable beneficial use.

5. The Proposed Appropriation is not Consistent with the Public Welfare of the State and the Conservation of Water within the State.

Notwithstanding the provisions of NMSA § 72-5-33(C)(2), the proposed appropriation is not consistent with the public welfare of the State and the conservation of water within the State. The Navajo Nation has substantial reserved, historical, and appropriative water rights to the San Juan River that have not been fully quantified. Settling the water rights of the Navajo Nation would provide certainty for water resource management in the San Juan Basin and would be otherwise beneficial to all water users in the basin, if not the State of New Mexico. Most Indian water settlements have been premised on the partial relinquishment of portions of the tribal entitlement in exchange for tribal water development utilizing the remaining undeveloped water supply. *See generally* Elizabeth Checchio & Bonnie R. Colby, INDIAN WATER RIGHTS - NEGOTIATING THE FUTURE, 1993; Peter W. Sly, RESERVED WATER RIGHTS SETTLEMENT MANUAL, 1988. This paradigm provides a mechanism for the protection of existing non-Indian water uses. The proposed Application would reduce the available supply of undeveloped water that could be used as part of a water rights settlement with the Navajo Nation. Thus, the proposed Application could hamper the ability to settle the water rights claims of the Navajo Nation, contrary to the public welfare of the State of New Mexico and the San Juan River basin.

In addition, the public welfare of the State and the conservation of water within the State would not be served by allowing the San Juan Water Commission to "hold the water rights . . . until such time any Joint Powers Agreement signatory party demonstrates the need for a portion of this water." Holding water rights for speculative purposes is contrary to N.M. Const., art. XVI § 3.

6. NMSA § 72-5-33 Unconstitutionally Deprives the State Engineer and the Court of Authority to Determine whether the Application is in the Public Welfare and Consistent with Water Conservation.

The State Engineer is charged with the responsibility to determine if a proposed application to appropriate water is in the public welfare of the state and not contrary to the conservation of water in the state. NMSA § 72-5-6. The provisions of NMSA § 72-5-33(C)(2) usurp the State Engineer of this authority by creating a presumption that such appropriation is consistent with the public welfare of the state and the conservation of water within the state. NMSA § 72-5-33(C)(2) violates N.M. Const., art. III by infringing on the power of the State Engineer to determine whether a proposed application to appropriate water is in the public welfare of the state and not contrary to the conservation of water in the state pursuant to NMSA § 72-5-6, or if such appropriation is consistent with the requirements of beneficial use pursuant to N.M. Const., art. XVI § 3.

Moreover, because all appeals to the district court from a decision of the State Engineer relating to water rights are heard *de novo* pursuant to N.M. Const., art. XVI § 5, the provisions of NMSA § 72-5-33(C)(2) usurp the authority of the courts to make determinations pursuant to NMSA § 72-5-6 and N.M. Const., art. XVI § 3. NMSA § 72-5-33(C)(2) is a legislatively created presumption intended to alter the rules of evidence and persuasion before the New Mexico courts. The New Mexico Supreme Court has made it clear that the Supreme Court, not the state legislature, has superintending control over the courts pursuant to N.M. Const., art. III and art. VI, § 3. *Ammerman v. Hubbard Broadcasting, Inc.*, 89 N.M. 307, 551 P.2d 1354, 1358 (1976).

In Arizona, the state legislature attempted to modify the state water code by mandating that certain water uses were presumed to be valid and that certain water rights filings were to be presumed as true. The Arizona Supreme Court struck down such legislative presumptions as unconstitutional infringements with the adjudicatory powers of the judicial branch. *San Carlos Apache Tribe v. Superior Court*, 193 Ariz. 195, 972 P.2d 179, 194-97 (1999). The attempt by the New Mexico legislature to create presumptions under NMSA § 72-5-33 (C)(2) infringes with the adjudicatory power of the State Engineer and the New Mexico courts.

7. NMSA § 72-5-33(B) Violates the Equal Protection Provisions of the United States and New Mexico Constitutions by Giving First Preference to Water Users Who have Entered into Repayment Contracts with the United States.

The provisions of NMSA § 72-5-33(B)(1) state that first preference for any appropriation of "released water" shall be given to "water users who have contracted to receive such waters under a repayment contract with the United States." At the time this provision was enacted, the San Juan Water Commission was the only project beneficiary with a repayment contract for ALP water. More importantly, the Navajo Nation, another project beneficiary, did not have a repayment contract. Nor was it likely that the Navajo Nation or any other Indian tribe would have a repayment contract with the United States since the costs associated with the development of Indian water projects are generally deferrable or non-reimbursable to the United States. In this instance, that is exactly what Congress provided for in the recent legislation authorizing the construction of ALP. NMSA § 72-5-33(B)(1) gives clear preference to the San Juan Water Commission to appropriate this water over the Navajo Nation, in violation of Article XIV of the United States Constitution and Article II, § 18 of the Constitution of New Mexico.

8. NMSA § 72-5-33(B) Violates the Equal Protection Provisions of the United States and New Mexico Constitutions by Giving Priority Date Preference to Water Users Who have Entered into Repayment Contracts with the United States.

The provisions of NMSA § 72-5-33(B)(3) state that appropriation of water under that section "by water users under a repayment contract shall bear the priority date of the original notice to appropriate such water." Those entities without a repayment contract, such as the Navajo Nation, are not afforded this benefit. For the reasons stated above, this provision violates gives clear preference to the San Juan Water Commission to appropriate this water over other entities, including the Navajo Nation, in violation of Article XIV of the United States Constitution and Article II, § 18 of the Constitution of New Mexico.

9. The Provisions of NMSA § 72-5-33(D) Do Not Cure the Problems with the Proposed Application or the Statutory Provisions of NMSA § 72-5-33.

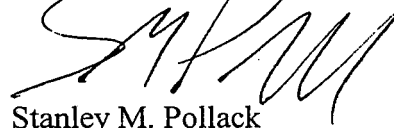
The provisions of NMSA § 72-5-33(D) state that nothing in that section "shall affect the water rights of any senior appropriators in New Mexico or any Indian tribe." As demonstrated above, the proposed application adversely affects the water rights of the Navajo Nation by giving the Commission an earlier priority date for its ALP water and by giving the Commission preferential access to the water subject to Permit No. 2883. It also adversely affects the interests of the Navajo Nation, and all other water users in the San Juan River basin, by making less water available for a settlement. The provisions of NMSA § 72-5-33(D) are merely pabulum that do not cure any of the objections stated herein.

Conclusion: For the above stated reasons, the application of the San Juan Water Commission should be denied.

The Navajo Nation reserves all rights to assert additional objections to the proposed application.

Respectfully submitted,

NAVAJO NATION DEPARTMENT OF JUSTICE



Stanley M. Pollack
Water Rights Counsel

xc: L. Randy Kirkpatrick, Executive Director
San Juan Water Commission
800 Municipal Drive
Farmington, NM 87401

December 17, 1968

File: 3215
Re: Your file
4-750

Mr. R. W. Gilbert
Acting Regional Director
U.S. Dept. of the Interior
Bureau of Reclamation
P. O. Box 11568
Salt Lake City, Utah - 84111

Dear Mr. Gilbert:

Enclosed is copy of Application for the above numbered file which has received the endorsement of the State Engineer. Please see attachment on the application.

Very truly yours,

S. E. Reynolds
State Engineer

By:

M. B. Compton
Engineer
Water Rights Division

MBC:fr

14. Additional data or explanation: The water will be diverted at several points along the San Juan River below Navajo Reservoir - the exact points of diversion, description of diversion dams, hydraulic properties of conveyance works and storage dams, and estimated costs will be furnished by supplemental application for each use after each contractor for water has finalized his plans for the construction of his works.

15. Estimated costs: Main canal or conduit \$ See paragraph 14.
Storage Dam \$ _____
Total cost _____ \$ _____

16. Time required to begin construction See paragraph 14. _____;
time required to complete the works _____;
time required to fully apply water to beneficial use _____

17. References: _____

I, _____, applicant being first duly sworn, upon my oath, depose and say that I have read the foregoing statements and that the same are true to the best of my knowledge and belief. United States of America, Department of the Interior, Bureau of Reclamation

By: R. W. Gilbert, Applicant
Acting Regional Director, Region 4

Subscribed and sworn to before me this 12th day of December, 1968

J. W. Frank Jr.
(Notary Public)

My commission expires Sept. 1, 1970

No Published OR Approved

SEE ATTACHMENT
ENDORSEMENT OF STATE ENGINEER

Number of this filing 3215
Recorded in Book (Page) 3215
Notice of Intention No. 3215 received August 28, 1967
Formal Application received December 16, 1968

It is hereby acknowledged that the attached application for the diversion and beneficial use of 500 cubic feet per second of water from the natural flow of San Juan River and its tributaries downstream from Navajo Reservoir, including seepage and return flows, has been submitted in compliance with Section 75-5-31, New Mexico Statutes Annotated, 1953 Compilation.

Witness my hand and seal this 17th day of December, A.D., 1968.

R. Reynolds
State Engineer



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
REGIONAL OFFICE - REGION 4
P. O. BOX 11568
SALT LAKE CITY, UTAH 84111

IN REPLY
REFER TO: 4-750

DEC 15 1968

Mr. S. E. Reynolds
State Engineer
State Capitol Building
Santa Fe, New Mexico 87501

Dear Mr. Reynolds:

Enclosed is an application to appropriate 500 second-feet of the natural public surface waters of the State of New Mexico from the San Juan River and its tributaries below Navajo Reservoir. Would you please substitute this application for the one we sent to you by letter dated December 6, 1968. Mr. Leroy Holmes discussed this matter with you by telephone on December 12, 1968.

→ Would you please either destroy or return to us the application submitted on December 6.

Sincerely yours,

Acting Regional Director

Enclosure (in duplicate)

cc:
Regional Solicitor, Salt Lake City, Utah
Project Manager, Durango, Colorado
w/copy of encl. to each

1968 DEC 16 AM 11:10
STATE ENGINEER OFFICE
SANTA FE, N.M.



IN REPLY
REFER TO: 4-750

UNITED STATES
DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION
REGIONAL OFFICE - REGION 4
P. O. BOX 11568
SALT LAKE CITY, UTAH 84111

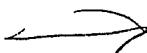
1968 DEC -9 AM 10:53
STATE ENGINEER OFFICE
SANTA FE, N. M.

DEC 6 1968

Mr. S. E. Reynolds
State Engineer
State Capitol Building
Santa Fe, New Mexico 87501

Dear Mr. Reynolds:

The United States of America, Department of the Interior, Bureau of Reclamation, is in the process of negotiating water purchase contracts with the Utah Construction Company and others for use of water for municipal and industrial purposes in San Juan County, New Mexico. Before these contracts can be consummated, the United States must have an approved application appropriating the public surface waters of the State of New Mexico. Accordingly we are submitting the enclosed application in duplicate to appropriate 500 second-feet of the natural public surface waters of the State of New Mexico from the San Juan River and its tributaries below Navajo Reservoir. This would also include seepage and return flows from Federal reclamation projects that would return to the natural channels and commingle with the natural surface waters.



We would appreciate your early approval of this application so that the contracts may be consummated prior to January 1969.

The United States' check in the amount of \$505 to pay the filing fee is also enclosed.

Sincerely yours,

Assistant Regional Director

Enclosures

September 1, 1967

File: 3215
Re: Your File 4-750

Mr. C. S. Rippon
Acting Regional Director
U.S. Dept. of the Interior
Bureau of Reclamation
P. O. Box 11568
Salt Lake City, Utah - 84111

Dear Mr. Rippon:

Enclosed is copy of Notice of Intention which has been accepted for filing and numbered 3215. Formal application, Maps and Specifications will be due in this office on or before August 28, 1970.

Very truly yours,

S. E. Reynolds
State Engineer

By:
M. B. Compton
Surface Water Rights Supervisor

MBC:fr



IN REPLY
REFER TO: 4-750

UNITED STATES
DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

REGIONAL OFFICE - REGION 4
P. O. BOX 11568
SALT LAKE CITY, UTAH 84111

AUG 25 1967

1967 AUG 23 AM 9:57

STATE ENGINEER OFFICE
SANTA FE, N.M.

H. J.
10
Liby

Mr. S. E. Reynolds
State Engineer
State Capitol Building
Santa Fe, New Mexico 87501

Dear Mr. Reynolds:

→ Enclosed is the United States of America, Department of Interior, Bureau of Reclamation's notice of intention to make formal application for permit to appropriate 200 second-feet of the natural public surface waters of the State of New Mexico from the San Juan River and its tributaries below the Navajo Reservoir. This would also include seepage and return flows from reclamation projects that would return to the natural channels and comingle with the natural surface waters.

The water to be appropriated would be used for municipal and industrial purposes in San Juan County, New Mexico.

The United States' check in the amount of \$10.00 to pay the filing fee is also enclosed.

Sincerely yours,

C. S. Rippon

Acting Regional Director

Enclosures (in dupl.)

8. Further description of proposed project of old works to be amended or enlarged hereby:

9. References:

I, Charles S. Rippon, do solemnly swear that I have read the foregoing statements and that the same are true to the best of my knowledge and belief.

Claimant United States of America
Department of Interior, Bureau of Reclamation
by Charles S. Rippon
day of ACTING Regional Director, A. D., 1967

Subscribed and sworn to before me this 18th
My commission expires Sept. 4, 1970

J. W. Frank Jr.
Notary Public.

Additional statements or explanations: Nothing in this notice shall constitute a waiver of any rights which the United States may have in and to the waters covered by this notice.

INSTRUCTIONS AND EXPLANATIONS FOR FILLING THIS FORM

(See Manual of Revised Rules and Regulations, Section on General Principles of Appropriation and Article on Notice of Intention.)

This form shall be made out in duplicate and shall be accompanied by a filing fee of \$10.00. If the application is to enlarge an existing project or to amend a permit, fill out this form to cover only the enlarged or amended portion, then state under Section 8 the data necessary to define the old works.

- Section 1. This section to be filled out by the State Engineer.
 - Section 2. Fill in the name and address of the applicant.
 - Section 3. If the applicant is a corporation, company or firm, fill out blanks under section three. Give date of filing certificate of incorporation with the Corporation Commission.
 - Section 4. The quantity of water to be appropriated for irrigation purposes should be stated in acre-feet delivered on the land. The amount to be used wholly or in part by direct diversion shall be noted after (a); that to be used wholly or in part by storage, after (b). Under (c) give any additional information necessary to properly state or define the use.
Important: Except in the case of flood water projects, no direct diversion to the irrigated lands may be made at a rate greater than 1 second foot for each 70 acres. In no case may a right be acquired for more water than can be beneficially used upon the irrigated area.
 - Section 5. Each blank under this section shall be filled out.
 - Section 6. In a direct diversion project, or in the case of diversion to an off-channel reservoir, the point of diversion is the location of the canal headgates on the bank of the stream or water-course. If water is to be stored behind a dam across the stream itself, the point of diversion then becomes the location of the outlet gates from the reservoir.
If the point of diversion lies on unsurveyed lands, it should be described as nearly as possible by legal subdivision "as projected" from the nearest accepted government survey.
 - Section 7. State all the purposes for which the water is to be used. If for "Irrigation and Domestic Use" state under (a) the total number of acres to be irrigated; under (b) the location of lands to be irrigated. If for "Manufacturing, Mining, Power, or Like Purpose", fill out the statements under that heading. If water is to be used for several purposes, fill out all blanks referring to the different purposes.
 - Section 8. Give here any additional data necessary to describe the proposed works or old works to be amended or enlarged hereby.
 - Section 9. Give references of a bank and merchant with whom applicant does business or to whom he is known.
Claimant shall sign affidavit to above statements before a Notary Public or other proper official qualified to administer oaths.
- Note: If additional space is necessary, use a separate sheet of paper and attach securely hereto.

APPLICATION FOR PERMIT
To Appropriate the Public Surface Waters of the State of New Mexico
Pursuant to NMSA § 72-5-33

Book and Page No. _____ File No. _____

1. Date of receipt of application _____
2. Name of Applicant San Juan Water Commission
 Mailing Address 800 Municipal Drive
 City and State Farmington, New Mexico Zip Code 87401
 County of San Juan State of New Mexico
3. Name of Applicant Principal
San Juan Water Commission
L. Randy Kirkpatrick
Executive Director
800 Municipal Drive
Farmington, N.M. 87401
4. Quantity of water applied for 15,080 acre feet per annum (consumptive use);
 (a) by direct diversion up to 48,000 acre feet, upon acceptance of a return flow plan by the State Engineer; (b) by storage 7,452.77 acre-feet of existing storage and up to 24,000 acre feet of proposed storage;
 (b) Storage amount shown of 7,452.77 acre feet above is existing storage permitted by the State Engineer as shown in Permit No. 4498. The 24,000 acre-feet is proposed storage for this application. See additional information under Item 12, Capacities of storage reservoirs.
5. Period of annual use January 1 to December 31
6. Source of water supply: (a) name of stream or water course San Juan, Animas and La Plata Rivers,
 (b) which is a tributary of the Colorado River
 (c) or is situated in Section _____ Township _____, Range _____
See additional information under Item 13, Source of water pursuant to NMSA §72-5-33.
7. Location of points of diversion or outlet from channel reservoir storage: (a) Attachment "A" ¼ _____ of Section _____, Township _____, Range _____, N.M.P.M. at a point whence the _____ of Section _____, Township _____, Range _____, bears _____ feet distant. (b) X = _____ feet, Y = _____ feet, N.M. Coordinate System _____ Zone within the _____ Grant.
8. To be used for: Municipal and Industrial purposes including but not limited to the following: domestic, lawn and garden watering, evaporation, lease, industrial, electric power generation, livestock watering, recreation, fire reserve, surface irrigation of parks, water production losses, aquifer storage and recovery and other related purposes.
9. Area to which water is to be beneficially used:

Subdivision	Section	Township	Range	Acres
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

'01 JUN 29 PM 4 00
 STATE ENGINEER
 OFFICE
 ALBUQUERQUE
 87100
 OFFICE OF
 STATE ENGINEER
 ALBUQUERQUE
 87100
 01 JUN 29 PM 10 10

does not exist

Within the service areas of the member entities of the San Juan Water Commission, as they exist today or may exist within the future, including the

APPLICATION FOR PERMIT
To Appropriate the Public Surface Waters of the State of New Mexico
Pursuant to NMSA § 72-5-33

Book and Page No. _____ File No. _____

1. Date of receipt of application _____
2. Name of Applicant San Juan Water Commission
Mailing Address 800 Municipal Drive
City and State Farmington, New Mexico Zip Code 87401
County of San Juan State of New Mexico
3. Name of Applicant Principal
San Juan Water Commission
L. Randy Kirkpatrick
Executive Director
800 Municipal Drive
Farmington, N.M. 87401
4. Quantity of water applied for 15,080 acre feet per annum (consumptive use);
(a) by direct diversion up to 48,000 acre feet, upon acceptance of a return flow plan by the State Engineer; (b) by storage 7,452.77 acre-feet of existing storage and up to 24,000 acre feet of proposed storage;
(b) Storage amount shown of 7,452.77 acre feet above is existing storage permitted by the State Engineer as shown in Permit No. 4498. The 24,000 acre-feet is proposed storage for this application. See additional information under Item 12, Capacities of storage reservoirs.
5. Period of annual use January 1 to December 31
6. Source of water supply: (a) name of stream or water course San Juan, Animas and La Plata Rivers,
(b) which is a tributary of the Colorado River
(c) or is situated in Section _____ Township _____, Range _____
See additional information under Item 13, Source of water pursuant to NMSA §72-5-33.
7. Location of points of diversion or outlet from channel reservoir storage: (a) See Attachment "A" ¼ _____ of Section _____, Township _____, Range _____, N.M.P.M. at a point whence the _____ of Section _____, Township _____, Range _____, bears _____ feet distant. (b) X = _____ feet, Y = _____ feet, N.M. Coordinate System _____ Zone within the _____ Grant.
8. To be used for: Municipal and Industrial purposes including but not limited to the following: domestic, lawn and garden watering, evaporation, lease, industrial, electric power generation, livestock watering, recreation, fire reserve, surface irrigation of parks, water production losses, aquifer storage and recovery and other related purposes.
9. Area to which water is to be beneficially used:

Subdivision	Section	Township	Range	Acres
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

01 JUN 29 PM 4 00
STATE ENGINEER
ALBUQUERQUE

does not exist

01 JUN 29 PM 4 00
STATE ENGINEER
ALBUQUERQUE

Within the service areas of the member entities of the San Juan Water Commission, as they exist today or may exist within the future, including the

City of Aztec, City of Bloomfield, City of Farmington, and the existing service areas of member entities of the San Juan Rural Water User Association. See Attachment "B" for descriptions of areas to which water will be beneficially used by Water User Associations. Also attached is a map showing existing service areas of Cities and Water User Associations.

10. Describe diversion works, stating construction materials, character of foundation, dimensions, etc.
See Attachment "C" for description of existing diversion works. Diversions for storage to reservoirs will consist of low-profile riprap diversion dams and gated concrete turnout structures from the Animas River. The turnouts will direct flow to concrete pump stations to deliver water to the reservoirs.
11. Capacities of storage reservoirs:
See Attachment "D" for description of existing capacities of storage reservoirs. The Commission also is giving notice that it plans to secure up to 24,000 acre feet of additional storage in New Mexico to secure this water supply. Two potential sites are in Cox Canyon and in Ditch Canyon.
12. Additional data or explanations

Water use will not be exercised to the detriment or impairment of any others having prior and existing rights to the use of water of the Animas River, San Juan River or La Plata River.

Source of water pursuant to NMSA § 72-5-33. The water to be appropriated under this application was permitted to the Bureau of Reclamation, Department of Interior (BOR), for perpetual use in New Mexico by the beneficiaries of the Animas-La Plata Project, in Permit No. 2883. This water, 15,080 AFY of consumptive use water, has been returned to the State of New Mexico by operation of law pursuant to NMSA § 72-5-33, which provides for return of the water to the public, and available for appropriation, if the United States Congress determines "that the planned federal reclamation project will not be constructed." By its passage of U.S. Senate Bill 2508, which was signed into law by President Clinton around December 21, 2000, the Congress determined that additional features of the Animas-La Plata Project originally authorized under the Colorado River Basin Project Act of 1968 (P.L. 90-537) will not be built without further express authorization from Congress. See §2(a)(1)(C)(i) of Senate Bill 2508. This is a determination that a severable portion of a planned federal reclamation project will not be constructed, and under NMSA 1978, § 72-5-33(A)(2), the water became available. The Administration also stated that this language would act as a "clear deauthorization" of the original project in New Mexico. See Statement of David J. Hayes, Deputy Secretary of the Interior, Before the House Resources Committee, Subcommittee on Water and Power on H.R. 3112, May 11, 2000, at p. 8. The amount of water available, 15,080 AFY consumptive use (CU), is determined by subtracting from the original depletion amount for the ALP, 34,000 AFY CU, the amounts allocated to participants in the ALP. The remaining amount of depletions, 15,080 AFY CU, may be appropriated pursuant to the provisions in § 72-5-33(B) of the statute. Under this section, the State Engineer is required to give first preference to water users such as the San Juan Water Commission, which has a repayment contract with the United States. In order to receive this preference, the application must be filed within one year of the release of the water, and that condition is being met with the filing of this application. Further, the appropriation requested by this application, pursuant to § 72-5-33(B)(2), is presumed to be consistent with the public welfare of the state and the conservation of water within the state. Further, under § 72-5-33(B)(3), the appropriation under this application shall bear the priority date of the original notice to appropriate such water, which is May 1, 1956. The applicant SJWC is applying to appropriate this water with a May 1, 1956, priority date to benefit the citizens of San Juan County.

Heavy conflict w/ SOI assigning permit # 15C?

18,920

Pursuant to the Joint Powers Agreement (JPA), dated March 5, 1986, the SJWC's mission is to acquire untreated water for the use and benefit of all the citizens, municipalities, water users associations and the other water users in San Juan County, N.M. These beneficial users are represented on the SJWC by its member entities. The

beneficial users under this application are the City of Aztec, the City of Bloomfield, the City of Farmington, and the San Juan Rural Water User Association. As provided in Paragraph IX of the JPA, in the event of dissolution of the Commission or the termination of the JPA, the City of Aztec, the City of Farmington, the City of Bloomfield, and the County as trustee for the San Juan Rural Water User Association shall have the absolute right to obtain their pro-rata share of water under this application.

The San Juan Water Commission will hold the water rights described in this application until such time any Joint Powers Agreement signatory party demonstrates the need for a portion of this water. At such time, the Commission shall notify the State Engineer of the entity to whom the water will be allocated, the quantity of water to be diverted, the point(s) of diversion, and period of use. The entity will then become responsible for compliance with all lawful conditions imposed by the State Engineer relating to the approval of this application. Such an allocation will not require public notice unless it results in a change in the place or purpose of use, or point of diversion not included in Attachment A to this application.

Any future modification of works necessary to accommodate surface releases under this permit will be constructed, operated, and maintained so as to not impair or be detrimental to any other prior and existing right. At the time of proposed modification, proper application will be made to the State Engineer.

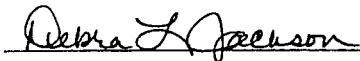
This permit would allow direct diversions from the San Juan River below its confluence with the Animas, as well as from the Animas and La Plata Rivers. In addition to these direct diversions from the San Juan, the Animas and the La Plata, the Commission may allocate water to an entity whose water sources is diverted from the San Juan River above the confluence of the San Juan River and the Animas River located in Section 20, R 13 W, T 29 N, N.M.P.M. The water diverted from the San Juan above its confluence with the Animas or from the La Plata will be offset by water releases into the San Juan River or by other means satisfactory to the State Engineer. It is anticipated that the State Engineer will direct diversion of this water only to the extent that the diversion will not cause impairment of, or reduction in, the amount of San Juan River water available to valid existing rights or to any Navajo Reservoir contract water being delivered via the San Juan River.

The Commission may allocate water to an entity whose water source is a shallow well in the river bed alluvium located immediately adjacent to the river. Water from this well will be offset by water releases from this permit or by other means satisfactory to the State Engineer.

I, L. Randy Kirkpatrick, affirm that the foregoing statements are true to the best of my knowledge and belief and that I am the Executive Director of the San Juan Water Commission. (sole, partial, agent for, etc.)



San Juan Water Commission, Applicant and holder of the right to water for beneficial use.



Subscribed and sworn to before me this 16th day of JANUARY, A.D., 2001. My commission expires 8-14-2004.

Notary Public

OFFICE OF
STATE ENGINEER
SANTA FE, N.M. 87501
01 JAN 16 PM 1 31

List of Attachments

Attachment A – Existing and proposed points of diversion

Attachment B – Areas to which water will be beneficially applied

Attachment C – Description of existing diversion works

Attachment D – Capacity of existing and proposed storage reservoirs

OFFICE OF
STATE ENGINEER
SANTA FE COUNTY, NEW MEXICO
01 JAN 18 PM 1 31

ATTACHMENT "A"
Existing and Proposed Points of Diversion

OFFICE OF
STATE ENGINEER
SANTA FE COUNTY, NEW MEXICO
'01 JAN 18 PM 1 43

A. Existing points of diversion:

1. *Location of existing points of diversion for the City of Aztec and for Water Association members of the San Juan Rural Water Association who receive water through the existing works of the City of Aztec:*

Animas River

NE 1/4 SW 1/4 SE 1/4 of Section 4, T 30 N, R 11 W, N.M.P.M., at a point whence the SE corner of Section 4 bears S 48° 30' E, 1950.3 feet distant.

Lower Animas Ditch

SE 1/4 NW 1/4 of Section 26, T 31 N, R 11 W, N.M.P.M., whence the West 1/4 corner of Section 26 bears S 65° 16' W, 2908.2 feet distant.

Aztec Ditch

SE 1/4 SW 1/4 of Section 5, T 31 N, R 10 W, N.M.P.M., whence the SW corner of Section 5 bears S 78° W, 1550 feet distant.

A map of "Points of Diversion from the Animas River & Turnout Points from the Aztec and Lower Animas Ditches for Municipal and Related Uses" dated July 12, 1988, is on file with the State Engineer Office.

2. *Location of existing points of diversion for the City of Bloomfield and for Water Association members of the San Juan Rural Water Association who receive water through the existing works of the City of Bloomfield:*

San Juan River

NE 1/4 NE 1/4 SW 1/4 of Section 19, T 30 N, R 8 W, N.M.P.M., at a point whence the SW corner of Section 19 bears S 41° 0' W, 3564 feet distant. X=535,131.58 feet, Y=2,108,947.37 feet, N.M. Coordinate System.

SW 1/4, NE 1/4 of Section 27, T 29N, R 11 W, N.M.P.M., at a point whence the NE corner of Section 27 bears N 56° 12' 43"E, 2669.18 feet distant.

3. *Location of existing points of diversion for the City of Farmington and for Water Association members of the San Juan Rural Water Association who receive water through the existing works of the City of Farmington:*

ANIMAS PUMP STATION #1 ON WILLETT DITCH DIVERSION POINT

NW 1/4 NW 1/4 NE 1/4 of Section 14, T 29 N, R 13 W, N.M.P.M., whence the NE corner of Section 14 bears N 89° 00' E, 2380 feet distant.

OFFICE OF
STATE ENGINEER
NEW MEXICO
JAN 13 1993

ANIMAS PUMP STATION # 2 DIVERSION

NW 1/4 NW 1/4 SE 1/4 of Section 28, T 30 N, R 12 W, N.M.P.M., whence the NW corner of Section 28 bears N 43° 41' 35" W, 3995.04 feet distant or whence the center of Section 28 bears N 22° 38' 27" W, 280.0 feet distant.

FARMER'S DITCH DIVERSION

SE 1/4 SW 1/4 NW 1/4 of Section 26, T 31 N, R 11 W, N.M.P.M., whence the West 1/4 corner of Section 26 bears S 82° 02' W, 998.5 feet distant.

SAN JUAN PUMP STATION DIVERSION

NW 1/4 SE 1/4 SW 1/4 of Section 22, T 29 N, R 13 W, N.M.P.M., at a point whence the SW corner of Section 22 bears S 53° 16' W, 1614 feet distant.

Location of existing points of diversion for the members of the San Juan Rural Water User Association who have points of diversion independent of any city:

4. *Point of diversion used by the Blanco Water Users Association:*

San Juan River

NE 1/4 of Section 4, T 29 N, R 9 W, N.M.P.M., whence the well to the East 1/4 corner of Section 4 bears S 26°08'25" E, 1171.90 feet.

5. *Additional diversion points used by the Flora Vista Water Users Association:*

WATER WELL No. 1

SW 1/4 of Section 23, T 30 N, R 12 W, N.M.P.M., whence the well to the West 1/4 corner of Section 23 bears N 03° 11' 43" W, 1613.19 feet distant.

WATER WELL No. 2

SW 1/4 of Section 23, T 30 N, R 12 W, N.M.P.M., whence the well to the West 1/4 corner of Section 23 bears N 07° 28' 35" W, 1759.44 feet distant.

WATER WELL No. 3

SW 1/4 of Section 23, T 30 N, R 12 W, N.M.P.M., whence the well to the West 1/4 corner of Section 23 bears N 02° 55' 45" W, 1821.30 feet distant.

OFFICE OF
STATE ENGINEER
JAN 18 1911
1 43

WATER WELL No. 4

SE 1/4 of Section 22, T 30 N, R 12 W, N.M.P.M., whence the well to the East 1/4 corner of Section 22 bears N 01° 15' 59" E, 1851.03 feet distant.

6. *Diversion points used by the Lower Valley Water Users Cooperative Association:*

FARMER'S MUTUAL DITCH ON THE ANIMAS RIVER DIVERSION

NW 1/4 SE 1/4 NW 1/4 of Section 21, T 29 N, R 13 W, N.M.P.M., whence the NW corner of Section 21 bears N 35° W, 2,200 feet distant.

FARMERS MUTUAL DITCH ON THE SAN JUAN RIVER DIVERSION

NW 1/4 NE 1/4 SW 1/4 of Section 17, T 29 N, R 13 W, N.M.P.M., whence the SE corner of Section 17 bears S 56° 40' E, 4,713 feet distant.

INFILTRATION GALLERY ON SAN JUAN RIVER

NW 1/4 NE 1/4 SW 1/4 of Section 18, T 29 N, R 13 W, N.M.P.M., whence the West 1/4 corner of Section 18 bears N 68° 56' 24" W, 1,219.68 feet distant.

7. *Point of diversion used by the Navajo Dam Domestic Water Consumers and Mutual Sewage Works, Inc.:*

San Juan River

SE 1/4 NW 1/4 SE 1/4 of Section 17, T 30 N, R 8 W, N.M.P.M., in Block Three (3) of San Juan River Estates Subdivision No. 2, as shown on the plat of said subdivision, filed for record July 20, 1970, said well being 2273.07 feet N 54°44'37" W from the SE corner of Section 17.

8. *Point of diversion used by the North Star Water Consumer and Mutual Sewer Works Coop., Inc.:*

Animas River

NW 1/4 SE 1/4 NE 1/4 of Section 18, T 31 N, R 10 W, N.M.P.M., at a point whence the NE corner of Section 18 bears N 23° 45' E, 210 feet distant.

9. *Point of diversion used by the West Hammond Domestic Water Consumers and Mutual Sewage Works Assoc.:*

San Juan River

SE 1/4, NE 1/4 of Section 28, T 29N, R 11W, N.M.P.M., at a point whence the East 1/4 corner of Section 28 bears S 03° 33' 41" E, 811.04 feet distant.

OFFICE OF
STATE ENGINEER
SANTA FE
NEW MEXICO
JUN 18 1970
43

B. Proposed points of diversion for possible storage sites:

1. Ditch Canyon Reservoir diversion point

South 15° East 3,700 feet from the NE corner of Section 33, T 32 N, R 10 W,
N.M.P.M.

2. Cox Canyon Reservoir diversion point

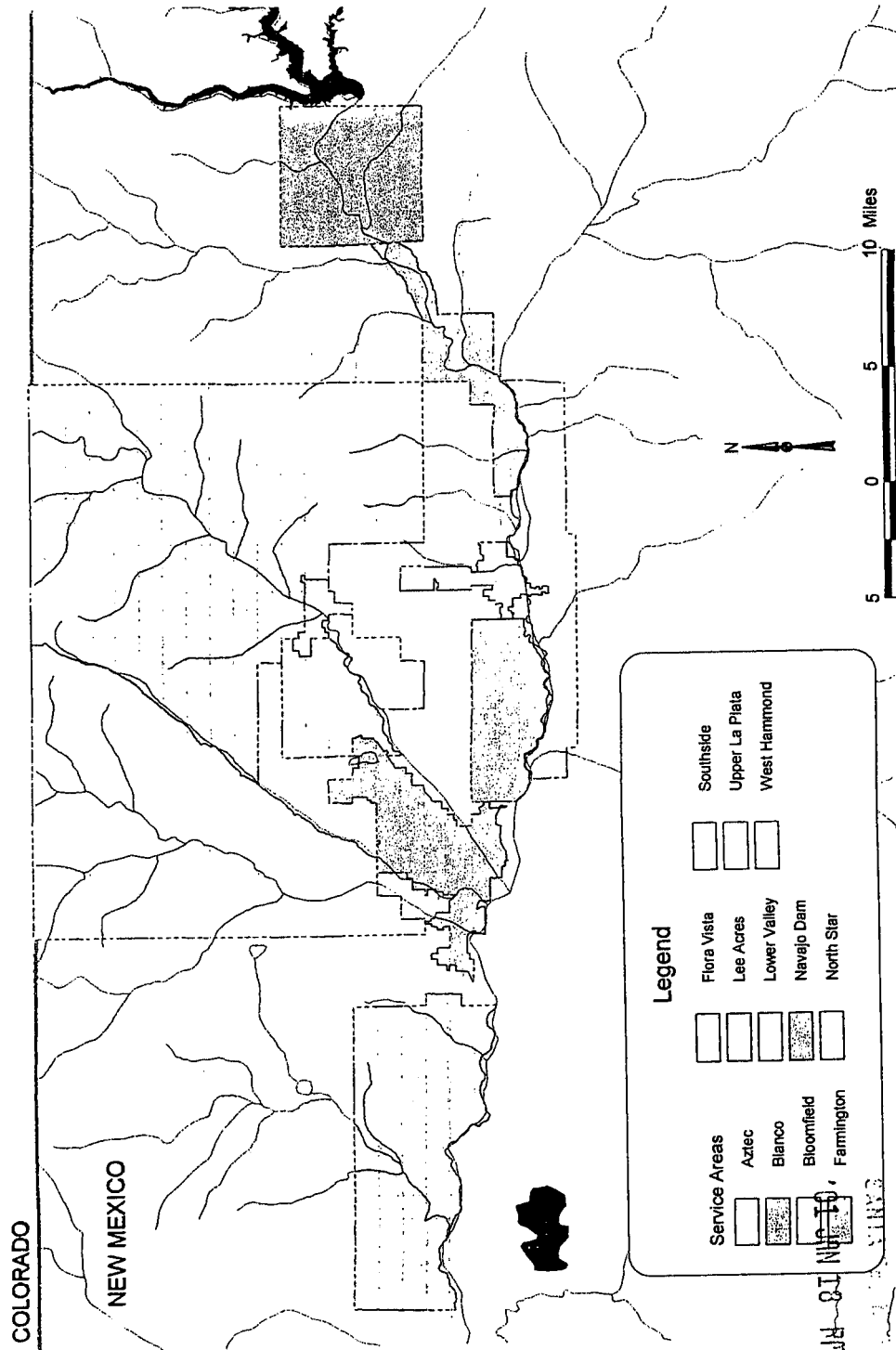
South 88° East 3,100 feet from the NW corner of Section 33, T 32 N, R 10 W,
N.M.P.M.

OFFICE OF
STATE ENGINEER
SANTA FE COUNTY
0600
01 JUN 18 PM 1 43

ATTACHMENT "B"
Areas To Which Water Will Be Beneficially Used

OFFICE OF
STATE ENGINEER
SAN DIEGO COUNTY, CALIFORNIA
01 JUN 18 PM 1 43

SJWC Member Entity Service Areas



COLORADO

NEW MEXICO

Legend

Service Areas
 Aztec
 Blanco
 Bloomfield
 Farmington

Flora Vista
 Lee Acres
 Lower Valley
 Navajo Dam
 North Star
 Southside
 Upper La Plata
 West Hammond

CH I WA 81 NUP 10
 STATE ENGINEER
 OFFICE OF

Description of areas to which water will be beneficially applied

The following narrative defines the extent of the service areas for member entities of the San Juan Water Commission.

Extent of data set: polygons are generally within San Juan County, from the San Juan River north to the Colorado border and from Kirtland east to Navajo Dam.

Coordinate information: Projection – State Plane #3003
Datum – NAD 83
Units – feet
Spheroid – GRS1980

Data Sources: The service areas of the water users were approximated from a map developed by Cielo Corporation as part of the Engineering Report prepared for the San Juan Water Commission in January 1995, in support of diversion applications filed with the State Engineer, file Nos. 4487 through 4501. The map showed little detail, including no river, road or grid data, which required the use of estimates in some areas in development of this map.

The line work for the map was developed from the parcel maps provided by San Juan County. These parcel maps included such information as roads, river lines and grid lines. The grid used by San Juan County is the geodetic control database (GCDB) developed by the Bureau of Land Management. In some areas where no GCDB grid existed, the public land survey system coverage developed by the United States Geological Survey was used to draw section lines.

Attribute information: the following are basic descriptions of each water user's service area. These descriptions are a guide only, they are not legal descriptions and it is possible that changes may be made to the boundaries in the future.

Cities:

City of Aztec – as described by the City of Aztec city limits.

City of Bloomfield – as described by the City of Bloomfield city limits.

City of Farmington – as described by the City of Farmington city limits.

Rural water user associations:

Blanco – starting at the northwest corner of Section 19 of T29N R10W and following the north line of that section line to the northwest corner of Section 23 T29N R10W. North along the west side of Section 13 T29N R10W, east along the south side of Section 12 T29N R10W, then north along the west side of Sections 6 and 7 T29N R9W. East along the section line between T29N and T30N to the intersection with the section line and the road on the north side of Section 4 T29N R9W, then northeast along the road to the boundary of Navajo Dam. South along the boundary to the road on the south side of the river, the southeast corner of Section 25 T29N R9W, then follow the road to the east side of Section 4 T29N R9W. Follow the section line south the southeast corner of Section 16. Follow the south side of Section 16 T29N R9W to Section 18, then follow the north side of the river the section line between R10W and R9W. Follow the section line north to the point of the beginning.

OFFICE OF
STATE ENGINEER
SANTA FE COUNTY
NEW MEXICO
01 JUN 18 PM 1 43

Flora Vista – starting at the northwest corner of Section 4 T30N R12W, follow the section line south to the city of Farmington city limits. Follow the city limits east, south and southwest to the west line of Section 22. Follow the west side of Section 22 south to the Animas River and then follow the river northeast to the west side of the city limits for Aztec. Follow the Aztec city limits north, west, north, east, north, east, to the east side of the Section 6 T30N R11W. Follow the section line to the northeast corner of Section 6, then follow the section line between T30N and T31N to the west and to the point of beginning.

Lee Acres – beginning at the northwest corner of Section 18 T29N R12W to the northeast corner of Section 17 T29N R11W. Follow the east side of Section 17 south to the river, then follow the north side of the river to the west and to the section line between R12W and R13W. Follow the section line north and to the place of beginning.

Lower Valley – beginning at the northeast corner of Section 21 T30N R14W and following the section line west to the northwest corner of Section 24 T30N R15W, then south along the section line to the San Juan River, then east along the north side of the river to the east side of the section line of Section 16 T29N R14W, then north along the section line to the northeast corner of Section 9 T29N R14W, then east along the section line to the northeast corner of Section 10 then north along the section line to the northeast corner of Section 34 T30N R13W, then west along the section line to the northwest corner of Section 34 and then continuing north along the section line and to the point of beginning.

Navajo Dam – described as Section 36 of T30N R8W.

North Star – beginning at the northwest corner of Section 7 T32N R9W, the section line between R10W and R9W, then heading west along the Colorado/New Mexico border to the northwest corner of Section 7 T32N R11W, the section line between R11W and R12W. Head south along the section line to the road, then follow the road in a southwesterly direction to the intersection of the road with the northeast corner of Section 31 T31N R12W. Head east along the section line to the northeast corner of Section 36 T31N R12W, head south along the east side of Section 36 to the southeast corner of the section, then follow the Flora Vista boundary in a southeasterly direction to the City of Aztec boundary, then follow the city boundary to the southwest corner of Section 10 T30N R11W. Follow the section line east to the southwest corner of Section 12 T30N R11W, then follow the section line south to the southwest corner of Section 36 T30N R11W. The follow the section line between T29N and T30N to the northwest corner of Section 6 T30N R9W, which is also the northwest corner of the Blanco boundary. Follow the section line between R9W and R10W north and to the point of beginning.

South Side – starting at the intersection of the northwest corner of Section 25 T30N R12W and the Animas River, then follow the section line south to the section line between T30N and T29N. Then follow the section line east to the corner of R12W and R11W. Follow the section line north to the northwest corner of Section 31 T30N R11W, then follow the north side of Section 31 to the east and to the northeast corner of 31, then follow the section line north to the southwest corner of Section 20 and follow the south side of the section to the city limit for Aztec. Follow the city boundary north, west, north, west, south, west and south to the Animas River. Follow the river southwest back to the point of beginning.

Upper La Plata – beginning at the northwest corner of Section 7 T32N R13W then follow the section line between R14W and R13W to the southwest corner of Section 31 T30N R13W. Follow the south side of Section 31 to the southeast corner, then north along the east side of Section 31 to the northeast corner, then east along the south side of Section 29 to the southeast corner of Section 29, then north along the east side of Section 29 to the northeast corner of Section 29, and then east along the north side of Section 28 and 27 and to the intersection of the Farmington Glade road and the north side of Section 27. Follow the Glade road in a northeasterly direction to the intersection of the section line for R11W and R12W. Follow the section line north to the Colorado/New Mexico border and then follow the Colorado/New Mexico border west and back to the point of beginning.

West Hammond – starting at the intersection of the section line between Sections 29 and 30 in T29N R12W and the south side of the San Juan River and following the river to the section line between R10W and R9W. Follow the section line south to the end of T29W, then follow the section line west between T29W and T28W. Turn south along the section line between R11W and R10W in T28N, and then follow the south side of Section 12 to the west side of Section 10, T28N R12W. Follow the west side of Section 10 to the north, then follow the section line between T28N and T29N to the section line between Sections 31 and 32 T29N R12W. Follow the section line north to the point of beginning.

OFFICE OF
STATE ENGINEER
SANTA FE COUNTY
'01 JUN 18 PM 1 43

ATTACHMENT "C"
Description of Existing Diversion Works

OFFICE OF
STATE ENGINEER
SANTA FE, NEW MEXICO
01 JAN 18 PM 1 44

Existing diversion works for the City of Aztec, City of Bloomfield, and City of Farmington and for Water Association members of the San Juan Rural Water Association who receive water through the existing works of the three cities:

Existing Diversion Works - City of Aztec

Diversion from Animas River-earth sump area with concrete pump station
Diversion from Lower Animas Ditch-concrete wet well with pump
Diversion from Aztec Ditch-concrete headgate structure

Existing Diversion Works - City of Bloomfield

Bloomfield Irrigation District Ditch Diversion (Diversion from San Juan River) - Concrete Headgate

San Juan Refining Company's river water pond (File No. 3385-S-2) - pond with vertical pumps and concrete sump in a building

Existing Diversion Works - City of Farmington

Diversion # 1 on the Willett Ditch - concrete pump station
Diversion # 2 from Animas River - concrete pump station
Farmers Ditch Diversion - concrete head gate
Diversion from San Juan River - concrete pump station

Existing diversion works for the members of the San Juan Rural Water User Association who have diversion works independent of any city:

Blanco Water Users Association

Well drilled to depth of approximately 20 feet. Outside diameter of casing is 48 inches.

Flora Vista Water Users Association

Four existing wells. Each well is drilled to a depth of 23 feet. Outside diameter of casing is 10.75 inches.

Navajo Dam Domestic Water Consumers and Mutual Sewage Works, Inc.

Earthen dam on San Juan River through gravel bed to pump house to keep pressure in shallow well. Well is 20 feet deep. Outside diameter of casing is 36 inches.

North Star Water Consumer and Mutual Sewer Works Coop., Inc.

Animas River
Concrete intake tower with submersible pump

OFFICE OF
STATE ENGINEER
SANTA FE, NEW MEXICO
01 JAN 18 PM 1 44

West Hammond Domestic Water Consumers and Mutual Sewage Works Assoc.

San Juan River

Concrete intake box with screen and submersible pump

OFFICE OF
STATE ENGINEER
SANTA FE, NEW MEXICO
01 JUN 18 PM 1 44

ATTACHMENT "D"
Capacity of Existing Storage Dams

OFFICE OF
STATE ENGINEER
CANTON, CONNECTICUT
• 01 JAN 18 PM 1 44

Capacities of storage dams for the City of Aztec, City of Bloomfield, and City of Farmington and for members of the San Juan Rural Water Association who receive water through the existing works of the three cities:

City of Aztec storage dams:

City has two permitted raw water storage dams:

Raw Water Storage Dam No. One - permitted capacity	31.26 acre-feet
Raw Water Storage Dam No. Two - permitted capacity	
Phase I	43.3 acre-feet
Phase II	48.5 acre-feet
TOTAL STORAGE	123.06 acre-feet

Storage dams - City of Bloomfield

El Paso Storage Reservoir No. 1, High Water Line Capacity, 55.31 Acre-feet; Reference Filing Maps File 2800, dated April 4, 1956

Reservoir enlarged to 82.44 acre-feet, circa 1963.

City of Farmington storage dams:

Farmington Lake Storage Reservoir - Permitted Capacity 7200 acre-feet - Reference File 2995

Capacities of storage dams for members of the San Juan Rural Water User Association who have storage independent of any city:

Lower Valley Water Users Cooperative Association

Storage Reservoir - Capacity 47.27 acre-feet - Reference File 3509

OFFICE OF
STATE ENGINEER
SANTA FE, NEW MEXICO
01 JAN 18 PM 1 44

San Juan Water Commission

600 MUNICIPAL DRIVE - FARMINGTON - NEW MEXICO - 87401 - 505-699-1462 - FAX 505-699-1453

MEMBERS:
 City of Aztec
 City of Bloomfield
 City of Farmington
 San Juan County
 S. J. County Rural Water Users Assoc.

Thomas C. Turney, P.E.
 State Engineer
 P.O. Box 25102
 Santa Fe, New Mexico 87504-5102

Post-it® Fax Note	7671	Date	3-7-01	# of pages	8
To	JOHN WHIPPLE		From	RANDY K.	
Co./Dept.	ISC		Co.	SJWC	
Phone #			Phone #		
Fax #	505-827-6188		Fax #		

Re: Assignment of New Mexico Permit No. 2883

Dear Mr. Turney,

The members of the San Juan Water Commission wants to express their personal appreciation for your long-standing support of the Animas La Plata Project. We also appreciate your help in passing the revised ALP via the Colorado Ute Indian Water Rights Settlement Act Amendments of 2000. We are now ready to work with you to implement the legislation to the benefit of the citizens of New Mexico, in particular the residents of San Juan County.

As you know, under Section 15(a) of the Amendment as passed, the New Mexico State Engineer can request the Secretary of the Interior to assign his interest in Permit No. 2883 back to the beneficiaries of the Animas La Plata Project. We request now that you ask the Secretary to assign the part of Permit No. 2883 that was contracted to the San Juan Water Commission back to the Commission. The San Juan Water Commission already is putting part of the water to beneficial use, and it makes sense to return the permit as directed in the legislation.

Attached for your convenience is a draft letter to the Secretary that would request the assignment pursuant to the statute. We would like to work with you and your staff as quickly as possible to begin the assignment process. As we discussed preliminarily two year ago, it may be best for the Secretary to assign the permit interests directly to the Commission after making the appropriate findings. The amounts of water requested for the Commission should be 30,800 AF (15,400 AF consumptive use) or amounts reflective of our pending return flow plan for the Animas La Plata water supply. Please advise us as to when we can meet to further the assignment.

Sincerely,



Mark Duncan, Chairman, SJWC

EXAMPLE

The Honorable Bruce Babbitt
Secretary, Department of the Interior
1849 c St., NW
Washington, D.C. 20240

Dear Secretary Babbitt,

Pursuant to Section 15(a) of the "Colorado Ute Settlement Act Amendments of 2000," I hereby request the return of 30,800 acre feet per year ("AFY") to the non-Navajo New Mexico beneficiaries, originally held by the State of New Mexico, in New Mexico Notice of Intention No. 2883, and assigned by the New Mexico Interstate Stream Commission to the Department of Interior ("DOI") on April 6, 1959, to reserve the necessary water rights to develop the New Mexico portion of the Animas-La Plata Project. As New Mexico State Engineer, I may transfer these rights to the San Juan Water Commission (30,800 AFY) pursuant to State Law and as indicated in the "Colorado Ute Settlement Act Amendments of 2000."

DRAFT

Sincerely,

Office of NM State Engineer

EXAMPLE

Thomas C. Turney, Secretary
New Mexico Interstate Stream Commission
P.O. Box 25102
Santa Fe, NM 87504-5102

Dear Mr. Turney,

DRAFT

By letter dated April 6, 1959, S. E. Reynolds, Secretary of the New Mexico Interstate Stream Commission, assigned to the United States Department of the Interior ("DOI") the New Mexico Notice of Intention No. 2883, filed on May 1, 1956 by the State of New Mexico, to provide the necessary water right to develop the proposed Animas-La Plata Project. The DOI hereby reassigns to the State of New Mexico, for assignment of the Animas-La Plata Project water, New Mexico Permit No. 2883, in accordance with applicable law, 30,800 acre-feet of the total 49,510 acre-feet, to the non-Navajo New Mexico beneficiaries. The DOI, in compliance with the Act of Congress - the "Colorado Ute Indian Water Rights Settlement Amendments of 2000," will retain for the Navajo Nation 4,680 acre-feet of the rights, of the total 49,510 acre-feet in New Mexico Permit No. 2883.

Sincerely,

Department of the Interior

DRAFT

BEFORE THE STATE ENGINEER STATE OF NEW MEXICO

FINDINGS AND ASSIGNMENT OF WATER RIGHTS

1. On May 1, 1956, the State of New Mexico, by S. E. Reynolds, State Engineer, filed a Notice of Intention to Make Formal Application for a Permit to appropriate the Natural Public Surface Waters of the State of New Mexico, Application No. 2883, on behalf of the State of New Mexico, for 49,510 acre-feet (34,000 acre-feet of consumptive use) from the Animas and La Plata Rivers, to provide the water right associated with the New Mexico portion of the Animas-La Plata Project.
2. By letter dated April 6, 1959, S. E. Reynolds, Secretary of the New Mexico Interstate Stream Commission, assigned to the United States Department of the Interior ("DOI"), Notice of Intention No. 2883.
3. On March 5, 1986, non-Navajo beneficial users of the Animas-La Plata Project water in the State of New Mexico, comprising the cities of Aztec, Bloomfield, and Farmington, San Juan County and the San Juan Rural Water Users Association, formed the San Juan Water Commission ("SJWC") pursuant to a Joint Powers Agreement.
4. On January 8, 1990, the SJWC and the DOI entered into repayment contract 0-07-40-R1080 providing the SJWC a diversion amount of 30,800 acre-feet (15,400 acre-feet of depletion) of Animas-La Plata Project water for municipal and industrial uses.
5. Article 11(a) of the repayment contract provides that the SJWC may commence diversion of the contract water prior to construction and operation of the Animas-La Plata Project.
6. The SJWC with the individual beneficial users applied to the New Mexico State Engineer for permit to divert the Animas-La Plata Project water pursuant to the above-stated contract, which applications 4487 through 4501.
7. On January 11, 1996, upon finding that the applications were consistent with the State's obligations pursuant to the Colorado River Compact, Section 72-15-5, N.M.S.A. 1978, and the Upper Colorado River Basin Compact, Section 72-15-26 N.M.S.A. 1878, and the terms of the repayment contract, the Office of the State Engineer granted applications numbered 4487 through 4501 subject to certain conditions of approval.
8. The State Engineer retained jurisdiction of each permit to ensure that the exercise of any permit would not result in detriment to or impairment of any

DRAFT

existing water right having a priority senior to May 1, 1956, would not be contrary to the conservation of water in the State and would not be detrimental to the public welfare of the State.

9. On _____, 2000, the DOI reassigned to the State Engineer, State of New Mexico for disposition to SJWC and the beneficial users in accordance with State law, 30,800 acre-feet (15,400 acre-feet consumptive use) per year.
10. The DOI, as trustee, retains the surface water rights for the Navajo Nation, 4680 acre feet of diversion (2340 acre feet consumptive use) provided by the State of New Mexico.
11. Pursuant to Section 72-5-22 N.M.S.A. 1978, the State Engineer hereby accepts for filing the Animas-La Plata Project surface water rights to the SJWC and the designated beneficial user of the State of New Mexico, subject to the jurisdiction of the State Engineer to ensure that the exercise of such rights will not result in detriment to or impairment of any existing water right having a priority senior to May 1, 1956, will not be contrary to the conservation of water in the State and will not be detrimental to the public welfare of the State, as follows;
 - (a) SJWC – City of Aztec – diversion of a maximum of 3,000 acre-feet per annum provided that a return flow of fifty percent is established;
 - (b) SJWC – San Juan Rural Water User Association (SJRWUA) – Blanco Water Users Association – diversion of a maximum of 139.2 acre feet per annum provided that a return flow of fifty percent is established;
 - (c) SJWC – City of Bloomfield and SJWC – SJRWUA – North Heights Water User Association – diversion of a maximum of 3,093.12 acre-feet per annum provided that a return flow of fifty percent is established.
 - (d) SJWC – City of Farmington – diversion of a maximum of 10,000 acre-feet per annum provided that a return flow of fifty percent is established.
 - (e) SJWC – SJRWUA – Flora Vista Water User Association – diversion of a maximum of 465.64 acre feet per annum provided that a return flow of fifty percent is established.
 - (f) SJWC – SJRWUA – Lee Acres Water User Cooperative Association – diversion of a maximum of 882.72 acre-feet per annum provided that a return flow of fifty percent is established.
 - (g) SJWC – SJRWUA – Lower Valley Water Users Cooperative Association – diversion of a maximum of 1998.24 acre feet per annum provided a return flow of fifty percent is established.
 - (h) SJWC – SJRWUA- Navajo Dam Domestic Water Consumers and Mutual Sewer Works Cooperative, Inc. – diversion of a maximum of 23.04 acre-feet per annum provided that a return flow of fifty percent is established.
 - (i) SJWC – SJRWUA – North Star Water Consumers & Mutual Sewer Works Cooperative, Inc. – diversion of a maximum of 209.28 acre-feet per annum provided that a return flow of fifty percent is established.
 - (j) SJWC – SJRWUA – Riverside Water Users Association – diversion of a maximum of 107.04 acre-feet per annum provided that a return flow of fifty percent is established.
 - (k) SJWC - diversion of a maximum of 10,000 acre-feet per annum provided that a return flow of fifty percent is established.

DRAFT

San Juan Water Commission

800 MUNICIPAL DRIVE • FARMINGTON • NEW MEXICO • 87401 • 505-599-462 • FAX 505-599-1463

MEMBERS:
City of Aztec
City of Bloomfield
City of Farmington
San Juan County

S. J. County Rural Water Users Assoc.

Richard Cheney
Chairman, Interstate Stream Commission
P.O. 25102
Santa Fe, New Mexico 87504-5102

Re: Assignment of New Mexico Permit No. 2883

Dear Mr. Cheney,

The San Juan Water Commission wants to express its appreciation for your support of the Animas La Plata Project. We also appreciate your help in passing the revised ALP via the Colorado Ute Indian Water Rights Settlement Act Amendments of 2000. We are now ready to work with you and your Commission to implement the legislation to the benefit of the citizens of New Mexico, in particular the residents of San Juan County.

As you know, under Section 15(a) of the Amendment as passed, the New Mexico State Engineer can request the Secretary of the Interior to assign his interest in Permit No. 2883 back to the beneficiaries of the Animas La Plata Project. We request now that the ISC consider favorably the attached resolution in support of the assignment of that the part of Permit No. 2883 contracted to the San Juan Water Commission. The San Juan Water Commission already is putting part of the water to beneficial use, and it makes sense to return the permit as directed in the legislation.

Attached for your convenience is a draft Resolution to your Secretary that would request the assignment pursuant to the statute. We would like to work with you and your staff as quickly as possible to begin the assignment process. As we discussed preliminarily two year ago, it may be best for your Secretary to assign the permit interests directly to the Commission after making the appropriate findings. The amounts of water requested for the Commission should be 30,800 AF (15,400 AF consumptive use) or amounts reflective of our pending return flow plan for the Animas La Plata water supply. Please advise us as to when we can meet to further the assignment.

Sincerely,



L. Randy Kirkpatrick, Executive Director, SJWC

DRAFT**State of New Mexico
Interstate Stream Commission
Resolution**

WHEREAS, the State of New Mexico assigned water rights to the United States Department of the Interior/Bureau of Reclamation ("DOI") to be held for the purposes of the original Animas-La Plata Project;

WHEREAS, the original Animas-La Plata Project has been modified by an Act of the United States Congress, the "Colorado Ute Indian Water Rights Amendments of 2000", and;

WHEREAS, the Act of Congress allows for assignment of the rights now held by DOI to the non-Navajo beneficiaries in New Mexico, and;

WHEREAS, the beneficial users of Colorado independently hold their Animas-La Plata rights for the Project, and;

WHEREAS, the New Mexico State Engineer and the beneficial users of New Mexico wish the beneficial users to independently hold these rights;

NOW, THEREFORE BE IT RESOLVED THAT:

- (1) The Secretary of the New Mexico Interstate Stream Commission shall request the DOI to reassign to the State of New Mexico for assignment (to the beneficial users) in accordance with New Mexico law, the 30,800 acre feet per year of the total 49,510 acre-feet per year originally assigned by the State of New Mexico to the DOI.
- (2) Upon the reassignment, the State Engineer may make findings and pursuant to New Mexico law, accept for filing the assignment of the 30,800 acre feet per year to the San Juan Water Commission.

St Eng
John W
John S

MEMORANDUM
October 1, 2001

From: Philip B. Mutz
Subject: Review-AMENDATORY FUNDING AGREEMENT AND REPAYMENT
CONTRACT---- U.S.-SAN JUAN WATER COMMISSION – REVISED
DRAFT—9/28/2001

The subject draft contract was transmitted to me by e-mail from the San Juan Water Commission (SJWC) for review. I have noted the following in reviewing the document. I have not reviewed the associated Environmental Commitments Escrow Agreement; they were not attached.

- The draft includes a “label” on all water to be provided to SJWC ie; “M&I Water Allocation”. With such a designation, the flows in the Animas River should be identifiable for administration to deliver the water to the Contractor.
- The SJWC would contract for only 3,025 acre-feet of storage in Ridges Basin Reservoir, which amount I understand is sufficient under the assumption that the Colorado Ute tribes will take all their allocation from the reservoir. The document also would afford SJWC “the opportunity to purchase excess storage”, which does not appear to provide much surety to acquire the storage if the Utes would decide in the future to take water from the Animas River. Also, at that time, the SJWC probably would have to deal with the Utes. It is suggested that SJWC seek to contract now for some additional storage or, if storage is not now available, seek language in the contract that provides more surety for a future purchase if necessary.
- The draft does not specify an amount of water for diversion by the Contractor. The draft does specify

Pg.1, last line continued on pg. 2, line 1. After “Animas River’ delete “, which Project has among its authorized purposes the furnishing of” and in lieu insert “to furnish”. As written, the word “Project” refers to the project authorized by the 1968 Act, which includes water for purposes other than listed on page 2.

Pg.2,(e), next to last line. Change “capacity” to “capability”. Capacity denotes the ability to hold, or a measure, neither of which seem to be intended in the section.

*Pg.3,(j), lines 6 and 7. Delete “to Contract 0-07-40-R1080”; not needed.

Pg.3,(k), line 1. Delete “its”; not needed. Also, the document would follow better if the order of sections (j) and (k) were reversed.

Pg.3, last two lines. Delete “amends” and “and modifies”; not needed.

Pg.4,Sec.1.(e), lines 1 and 2. After “106-554,” insert “to be constructed under the Project,” and delete that phrase as it appears later in the sentence.

Pg.5,Sec.1.(h), line 3. Change “State” to “States” and after “Colorado” insert “and New Mexico”

Pg.9, Sec.5.(a), next to last line. Before “their” insert “the water supply necessary for”, before “available” insert “to be” and change “any” to “all”.

Pg.10, Sec.6.(a). Delete the sentence as it seems repetitive. If the sentence is to be retained, change the first part of the sentence to read: “This allocation will be met by a combination of direct flow diversion from the San Juan River System and water ...”.

Pg.11, Sec.6.(b). Delete the section as it does not appear to be germane to this contract. If the section is to be retained, in the second line, change “put to” to “diverted for”; the referenced permits are permits only to divert.

Pg.11, Sec.6.(c), second line. After “supplement” insert “the amount of” and change “amounts” to “as”. In the next line delete “of”.

Pg.12, Sec.7.(b). Change the first sentence to read; “Upon assignment as described in (a) above, the Commission shall work diligently to put the water to beneficial use under New Mexico State Law.” In the next sentence, change “its” to “the”, delete “of the Commission to use or permit the use of its M&I Allocation”, delete “the Commission” and change “project” to Project”.

Pg.13, Sec.8(a). In the second and third lines, The word “water” does not seem to be applicable as used, and the sentence would appear to be all right if it were deleted. In the fifth line, after “levels” insert “and”. In the ninth and tenth lines, delete “in the May 2001 Interim Cost Allocation”.

Pg.14, third line. The word “water” again does not seem applicable.

Pg.15, seventh line. Move “only” to follow “warranted”. In the first full paragraph, second line, delete the word “those”; it is indefinite.

Pg.17, Sec 8(h), first line. Move “annually” to follow “consult”.

Pg.22, first and second lines. Change to read “, the Commission may use the M&I Water Allocation to the extent available by direct flow diversion from the Animas River,”.

Pg.23, second line. After “Plata” insert “Project”.

Priority	D. Feb	Diversion Rate (cfs)	Accumulated Rate
1A - 1877	Lower Animas	40.52	40.52 (Aztec)
1B	star	44.50	85.02
2A - 1878	Graves Atterbury	1.68	86.70
2B	Eledge	25.79 + 200 hydro	112.49 + 200
2C	Farmington Allen	16.25	128.74
2D	Willott	1.61 + 205 hydro	130.35 + 405
2E	Wright-Leggett	30.72	161.07
3A - 1880	Kello-Blancett	13.15	174.22
3B	Ranchman's-Terrill	8.63	182.84
4 - 1882	Aztec	28.24	211.08
5A - 1886	Cedar	8.52	219.60
5B	Ralston	9.2	228.80
5C	Stacey	12.08	240.88
6 - 1887	Twin Rocks	8.62	249.50
7 - 1888	Sargent	4.5	254.00
8A - 1891	Independent	63.20 includes 87 cfs for transfer of 10 cfs	317.20
8B	Halford	22.28 for transfer quantity of 100 cfs	339.48
9 - 1892	Farmer's I.D.	27.4	366.88
10 - 1896	Echo	39.61	406.49
11 - 1897	North Farmington	43.8	450.29
12 - 1901	Graves-Atterbury Ext	16.08	466.37
13 - 1903	Aztec Ext	6.33	472.70
14 - 1907	Jones Ext - Farmer's	5.26	477.96
15 - 1908	Lower Animas Ext	16.05	494.01
16 - 1910	Farmer's Ext	104.53	598.54

Permitted surface water rights on the Animas River of the San Juan Steam System
 since the San Juan Decree No. 01690 dated April 8, 1948 (Echo Ditch Co. vs McDevitt Ditch Co.)

9/2/49

File No	Owner	Priority	Source	Use	Animas' Rights	Remarks	CS	PV	BATS
2574	D.M. Brown	April 1, 1946	Animas	Irrigation	100.98 AF	33 acres - Licensed April 20, 1949 (See page from Echo Ditch)	4825		
2574	Robert F. Brothers	Nov. 15, 1946	Animas	Irrigation	124.0 AF	40 acres - Licensed March 9, 1948 (See Remarks Ditch)	1,000		
2403	San Juan County Club	June 4, 1947	Animas	Irrigation	399.55 AF	31.0 acres - Licensed Aug. 2, 1950 (Habitat Improvement Ditch)	3,275		
2637	W. C. Carruthers	March 19, 1948	Animas	Irrigation	45.00 AF	15.0 acres - Licensed Dec. 3, 1962 (Shog Ditch)	0.175		
2660	Ben A. McFeth	Aug. 8, 1949	Animas	Irrigation	71.00 AF	35.7 acres - Licensed May 12, 1963 (Improvement Ditch)	0.895		
2758	Gallego Pge Div. of the Mount Carbon Co.	Jan. 20, 1952	Animas	Industrial	53.00 AF	Licensed Feb. 5, 1957 (See page from San Juan Ditch)	0.700		
2801	John of Fife	Dec. 18, 1953	Animas	Municipal	67.6 AF	Licensed July 15, 1957 (Lower Animas and Animas Ditches)	7,512		
2801	L.L. Stallings	Feb. 14, 1954	Animas	Irrigation	204.22 AF	69.7 acres - Licensed Jan. 28, 1965 (Farmers Mutual Ditch)	1,794		
2801	Farmers of Animas	Apr. 3, 1954	Animas	Municipal	108.00 AF	10 AF - Certificate of Land Administration dated July 28, 1962 (Willitt Ditch Animas River)	0.155		
2830	San Juan Western Oil Refining Co.	Jan. 13, 1955	Animas	Industrial	108.00 AF	Licensed Oct. 20, 1958 (McDevitt Independent Ditch)	0.155		
2834	Walter O. Willard H. Reed	Dec. 10, 1956	Animas	Irrigation	59.85 AF	19.95 acres - Licensed April 4, 1964 (Farmers Mutual Ditch)	0.499		
2837	Sam Gunn Ground Co.	Oct. 3, 1955	Animas	Food & Feeding	97.80 AF	34.78 acres (impd) (Chickadee) Licensed Dec. 20, 1965	0.635		
2839	James E. McDevitt	March 4, 1955	Animas	Irrigation	25.5 AF	8.5 acres - Licensed July 25, 1957	0.23		
2844	P. Bentley's Estate	May 8, 1955	Animas	Irrigation	24.42 AF	7.98 acres - Licensed Dec. 29, 1955	0.200		
2883	Bureau of Reclamation	May 1, 1956	Animas to Ditch	Irrigation	49.500 AF	20.600 acres - Animas - to P-23 Project	0.500 cfs		
2804	Jockeppich	April 30, 1956	Animas	Irrigation	22.5.34 AF	7.51 acres - Licensed Jan. 15, 1960 (Farmers Mutual Ditch)	1,880		
2949	M.M. Dept of Game & Fish	May 13, 1958	Animas	Recreation	16.74 AF	Helmberg Spring - Licensed October 20, 1959	0.015		
2995	Tomson of Farmington	August 20, 1959	Animas	Municipal	7,200.0 AF	7.14 acres - License of the Agricultural site approved Dec. 23, 1960. Licensed July 21, 1960, 50.00	1,925		
3020	Tom Borwick	June 10, 1960	Animas	Service & Recreation	107.32 AF	Licensed Dec. 15, 1964 (Echo Ditch)	1,925		
3090									

Mr. Reynolds

Farmington still operates their Gas Fired Power Plant and uses water diverted from the Willitt Ditch for cooling the plant.

548.75
18.39
11.531
Dennis Stone