

John Whipple

From: scone
Sent: Monday, December 09, 2002 9:18 PM
To: Michael.Schoessler
Cc: JohnRCawley; BParry; spollack; tturney; ecoriz; jwhipple
Subject: Navajo-San Juan River Federal Indian Water Rights Negotiation Team

9 December 2002

electors Concerned about Animas Water -- CAW
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Michael Schoessler, Team Leader
Navajo-San Juan River Federal Indian Water Rights Negotiation Team

U.S. Department of the Interior
Office of the Solicitor
505 Marquette Ave. NW
Suite 1800
Albuquerque, NM 87102

SUBJECT: Navajo-San Juan River Federal Indian Water Rights Negotiation (Negotiation)

Dear Michael:

Thank you for responding in advance of this week's meeting of your Navajo-San Juan River Federal Indian Water Rights Negotiation Team (Team).

As you know, CAW has expressed an interest in the subject Negotiation, particularly regarding the Department of the Interior's (DOI) application of its policy for the negotiation and settlements of claims concerning Indian water resources, 55FR9223 (Policy). Your observation that this Policy has been inconsistently or haphazardly applied over the past decade confirms our worst fears.

At the same time, we are encouraged by your expressed intention to strictly adhere to the Policy as established in the "Criteria & Procedures" during your Team's ongoing two-year effort with the subject Negotiation. I suppose it would be reasonable to assume that, initially anyway, DOI personnel assigned to other negotiation teams had similar intentions of enforcing the required "Criteria & Procedures", but then, for one reason or another, found it more convenient, advantageous, or politically expedient to abandon their responsibility to uphold that Policy.

In our opinion, only a full and careful implementation of the Policy in the subject Negotiation will fulfill the Secretary's obligation under the federal Indian trust responsibility. Indian Trust Assets (ITAs) in connection with Navajo Nation water rights claims to the San Juan River cannot be accurately assessed and adequately protected if the DOI's slipshod approach to Policy enforcement resurfaces in the subject Negotiation. Certainly the American people will be ill-served by any

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perpetuation of this willy-nilly system which leaves so much to chance, if not outright subterfuge.

We sincerely appreciate your willingness to present the requests in CAW's October 22nd letter to the non-Federal parties for consideration and action at this week's negotiation session. However, your view that the Team has no independent ability or authority to provide for the involvement of additional non-Federal parties in the subject Negotiation seems to be incompatible with the "Criteria & Procedures" of the Policy. In fact, the Policy does not make allowance for the arbitrary exclusion of individual stakeholders or entities with competing claims and interests as a prerequisite to the subject Negotiation. Neither does the Policy support your determination that the current negotiations shall be closed to the public and conducted in absolute secrecy.

If the subject Negotiation is to be kept free of bias and prejudice, the Team must act swiftly with authority to allow for the participation of additional interested parties, including legitimate stakeholders.

Once again, we appreciate your time and consideration in this matter.

Sincerely,

Steve Cone and Verna Forbes Willson
for electors concerned about Animas Water -- CAW

cc:

Brian Parry
John Cawley
Tom Turney
John Whipple
Stanley Pollack
Ernie Coriz