

AGENDA ITEM # 1 – CONVENE:

Chairman Dunlap called the meeting to order at 10:10 a.m.

Chairman Garcia introduced the following to the Commission:

- Elias Coriz – County Commissioner (Chairman) for District I.
- Felipe Martinez – County Commissioner for District II
- Lorenzo Valdez – Rio Arriba County Manager.

AGENDA ITEM # 2 – APPROVAL OF AGENDA [Attachment 1]:

Commissioner Garcia moved, Commissioner Espinosa seconded, to approve the meeting agenda. The motion carried unanimously.

AGENDA ITEM #3 – APPROVAL CONSENT AGENDA :

Commissioner Wilcox moved, Commissioner Espinosa seconded, to approve the consent agenda. The motion carried unanimously.

AGENDA ITEM #4– ACCEPTANCE OF THE RIO CHAMA REGIONAL WATER PLAN (REGION 14) :

Mary Helen Follingstad introduced the following to the Commission:

- Dave Morgan – La Calandria Associates, the principal consultant on the water plan.
- Fidel Trujillo – Rio de Chama Acequia Association (RCAA), member of the citizens steering committee on the water plan.
- Fred Vigil – Rio Arriba County Clerk and Chairman of the New Mexico Acequia Commission, as well as the President of the Rio de Chama Acequia Association (RCAA), leader and principal contact on the development of the water plan.

Mary Helen Follingstad stated that they have been working on the Rio Chama Regional Water Plan for 10 years and it is her pleasure to finally present it to the Commission for acceptance.

Mr. Lorenzo Valdez, Rio Arriba County Manager welcomed the Commission to Rio Arriba County and thanked them for having the ISC meeting in Tierra Amarilla.

Mr. Fred Vigil stated that he feels this is the best water plan in the entire State.

Mr. Morgan gave a brief description of the water plan as follows:

- Executive Summary.
- Chapter 1 – Introduction and Regional background information.
- Chapter 2 – Community involvement.
- Chapter 3 – Legal Issues.
- Chapter 4 –Water Supply.
- Chapter 5- Water Use and demand.
- Chapter 6 – Water Budget.
- Chapter 7 – Planning alternatives.

Mr. Morgan stated that Chapter 4 and 5 are the basics of water supply and demand. Mr. Morgan explained that the water plan contains 3 appendices. The first appendix (A) is a compilation of community outreach material, meeting minutes, and public comment. The second appendix (B) is material relating to water supply, climatic data and hydrographs. Third appendix (C) relates to water demand and contains population calculations.

Mr. Fidel Trujillo stated that the area has around 418,000 acre-feet of water that originates in the area, about 10% of this water is depleted in the area and the remaining 90% flows to the Rio Chama and is used downstream. Mr. Fidel Trujillo explained there is a need to provide an adequate and safe supply of drinking water for the residents of the region. The consensus of the people throughout the region is that they wish to maintain the rural, acequia, and agricultural lifestyle, which is stated in the public welfare statement of the Water Plan.

Mr. Fred Vigil stated that one of the strongest comments from the people in this region is that they feel very strongly about keeping and a maintaining the water in the region.

Mr. Morgan pointed out a diagram within the Executive Summary of the Water Plan that provides a graphic explanation of the current water uses and what happens to the water that originates in the region. Mr. Morgan stated that they did get strong and consistent feed back from people throughout the region about trying to maintain both the general rural character of the area and keeping the rights and infrastructures in place to do that. During public meetings (summarized in Chapter II), there were eight goals that residents within the region wanted the Water Plan to accomplish. Mr. Morgan explained the eight water plan goals:

- Keep water rights within the region to protect local water resources and provide for future growth.
- Preserve the acequia system and strengthen its role in community life.

- Enhance growing season streamflows (by increasing storage or other means) so that agriculture is less limited by low summer flows.
- Protect water quality.
- Develop local agriculture with information, marketing, and financial support.
- Provide reliable water supplies to community water systems.
- Conserve and reuse water resources where appropriate.
- Protect and restore upper watershed areas.

Mary Helen Follingstad requested the Commission's acceptance of the Rio Chama Regional Water Plan.

Questions from the Commissioners:

Chairman Dunlap asked Mr. Lorenzo Valdez how long he has been Rio Arriba County Manager.

Mr. Lorenzo Valdez responded 12 years.

Chairman Dunlap commended Mr. Valdez on his work as County Manager.

Vice-Chairman White asked if they are allowed to divert any water that comes from the San Juan Chama Project.

Mr. Fred Vigil responded that the Rio Chama Acequia Association has a contract for San Juan Chama Project water, and that water is used in times of shortages.

Vice-Chairman White stated that he has had discussions with Manuel Trujillo and one of his biggest concerns is that there is adequate water, but there is no way to catch it.

Mr. Fred Vigil responded that the statement Vice-Chairman White made is very true and one of the goals is to build a structure or reservoir that would allow them to legally hold some of that water and release it slowly or let it permeate into the aquifer, to be used in the summer months.

Director López asked for clarification from Mr. Vigil concerning the contracts for San Juan Chama water.

Mr. Fred Vigil responded that the contracts are actually subcontracts with the city of Albuquerque and the Jicarilla Tribe, they are not directly with the Department of Interior.

Mr. Fidel Trujillo pointed out that about 90,000 thousand acre-feet come in from the San Juan Chama diversion and 99.99% leave the region.

Mr. Fred Vigil stated that one of the concerns that the committee has is that when the San Juan Chama project was proposed back in 1962, the intent was to provide water for some of the northern communities and that intent has not been necessarily fulfilled, so we are working with our Congressional Delegation to see how this may be remedied.

Chairman Dunlap asked if the region was allocated any portion of that water when the agreement was originally done.

Mr. Fred Vigil responded that the City of Espanola was allocated a portion, but they are outside of the planning area.

Chairman Dunlap stated he believes that all of the water in the San Juan Chama is presently under firm contract.

Director López added that 2,990 acre-feet of the San Juan Chama water has been allocated, but not contracted for the Taos area.

Commissioner Espinosa asked how the growth projections over the next decade are going to affect the watershed.

Mr. Morgan explained that future population projections are uncertain, however in terms of planning for the future it seems sensible for us to assume that there will be roughly 50% growth in population. We use approximately 1,600 acre-feet per year on average for community and domestic use, that would suggest that we should plan on at least 3,000 to 5,000 acre-feet per year for household and domestic use.

Chairman Dunlap stated that he looks at this water plan differently, because Chama could easily become a highly transient community that may have a great water demand seasonally. Chairman Dunlap asked with the present water condition, what water would be stored and where would that water come from out of the existing supply.

Mr. Fidel Trujillo stated that it is explained in the water plan that the region could not withstand a vast increase in population without allocating more water either within the region or importing water from outside the region.

Chairman Dunlap stated this is something that needs to be kept on top of and planned for.

Mr. Fred Vigil stated we would like to consider the water plan as a living document and as the need arises, update the water plan to keep it current.

Chairman Dunlap urged the County Commission to be involved in the rural water systems. These systems need to be protected and taken care of.

Commissioner Espinosa stated that she thinks it is great idea to keep the water plan updated, and suggested having an annual update.

Commissioner Espinosa asked where water would be imported from if needed.

Mr. Fred Vigil responded that they are not at that point yet. There could be some contract water that may become available. Possibly if a number of small reservoirs were created some water could be stored and drained out for special need.

Commissioner Espinosa stated that it is really important that the County Commission take note of the future needs for staffing and professional requirements to maintain and update this plan.

Commissioner Garcia stated that Rio Arriba County has been very active in the water planning issues. The Rio Arriba County Commission has been looking at water transfers as part of the public welfare policy. Rio Arriba County has also submitted a resolution in regards to the public hearings being held on domestic well issues, in support of the Mutual Domestic Water Associations for water transfers to occur between mutual domestics or private domestic permits for available water. The Rio Arriba County Commission has been very active over the last 10 years in making sure that Rio Arriba County has maintained available water. One of the concerns that the County has is that among the water projects in Rio Arriba County we have not had the opportunity to share in those projects and the County wants to be part of any activities in Rio Arriba County in regards to natural resources.

Public Comments were given on the Rio Arriba County water plan.

Vice-Chairman White moved, Commissioner Garcia seconded, to approve the request for acceptance of the Rio Chama Regional Water Plan (Region 14). The motion carried unanimously.

AGENDA ITEM #5- SECRETARY REPORT:

Secretary D'Antonio reported on the following items

INTERM WATER AND NATURAL RESOURCES COMMITTEE

Governor Richardson has announced 2007 to be the year of the water. Staff made a presentation to the Legislative Finance Committee on May 15, 2006 to present OSE/ISC priorities and needs as concerning capital outlay projects, administrative issues, and regionalization of water projects. As a result of that presentation staff were able to meet with Mr. Hume to discuss priorities within in

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New Mexico with respect to water. Mr. Hume presented the following at the June 16th Interim and Natural Resource Committee meeting:

- The State Engineer's Office is celebrating the 100-year anniversary of the surface water code enacted in 1907.
- Constitutional amendment to make the Water Trust Board Fund a constitutionally protected permanent fund. This will be on the ballot in November of 2006. Last year the Legislature set aside 400 million dollars as seed money for the particular endowment.
- Maintaining an adequate supply of safe drinking water, through regionalization of water and wastewater projects. \$75,000 dollars has come from the Department of Finance and Administration and the New Mexico Environment Department to start looking at some of the status and possible consolidation of laws to regionalize these projects.
- The State is going to take a more active role in working with the Middle Rio Grande Conservancy District in regards to Middle Rio Grande issues.
- The current Biological Opinion and flow targets.
- The Ute Pipeline Project.
- Indian Rights Settlements.
- Salt Basin as a potential supply of water.
- The decision efforts related to New Mexico receiving water from the Arizona Water Rights Settlement in the Gila Basin.
- Eagle Nest Reservoir Settlement Agreement.
- The Pecos Settlement and the progress in that area.
- The Governor's water innovation fund, and applying this to some of the Governor's Blue Ribbon Task Force issues to start evaluating some of the money that has gone to particular projects that could prove fruitful for saving water in New Mexico.
- The Active Water Resource planning initiative, which is the key to administration in the State of New Mexico.
- The Elephant Butte Pilot Channel work that has been instrumental for meeting our compact deliveries to the State of Texas.
- The goal of determining and protecting the rights of senior water users within New Mexico.

DOMESTIC WELL ISSUES

A lawsuit has been filed against the State Engineer by Mr. Bounds from the Mimbres Basin. He is suing us on the existing domestic well statute. This highlights the concern that there is a constitutional issue with respect to continuing to allow domestic wells when there is no water right associated with the domestic wells use. Our domestic well regulations are a way to allow for some reasonable and prudent methods to go forward in continuing to allow for some development of domestic wells. This will give us a mechanism in which to create a domestic well management area in those areas where it is needed. In

essence if this lawsuit were to be successful it would essentially create a domestic well management area for the entire State of New Mexico, and restrict domestic wells.

In respect to the domestic well regulations and especially because of the concern that was brought up during the regional water plan presentation we have regulations that allows for the State Engineer to undertake a settlement agreement with different mutual domestics or water systems, in order to allow for some existing domestic use transfers into mutual domestics. If some of these settlements take place the agreement is going to require capping of those domestics wells. This would further protect the quality of the water supply but allow for a mechanism under which use could happen.

WATER SHORTAGES

Staff will be in the Mimbres Basin next week to discuss sharing shortages. A public forum and presentation will be held in Las Vegas to discuss the sharing of the water supply due to shortages. This would avoid an enforced priority call.

WATERS DATA BASE

An issue has arisen with the WATER Database records keeping in the Roswell basin. We have records in all of the district offices and duplicate record in Santa Fe, however a lot of times the records are not the same in both locations. Through this process staff bring the records to a central location and compare the two files in order to have a complete file to enter into the database. There is nobody more concerned about this data and information than the State Engineer's Office as the Administrator. We have quality control procedures in place to ensure that this process is done correctly and the records are protected.

WRAP

WRAP division directors will be in Taos June 22, 2006 for the Association of Counties meeting. Staff will be making a presentation to inform the Association that the costs for Water Master activities by state statute can be passed onto the Counties. Last year staff tried and were unsuccessful at receiving Water Master funding from the State Legislature. What this does is put the County Managers on notice that these Water Masters can be funded by the water users themselves. We have another Legislative session in which we are going to request funds to help pay for the Water Masters. If we do not receive an appropriation from the legislature next year some of the costs for the Water Masters will be passed onto the water users through the County Assessor's Office.

Questions from the Commissioners:

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Commissioner Garcia noted that within the Rio Chama water plan the senior water right in Rio Chama was 1600.

Mr. Brent Bullock with the Pecos Valley Artesian Conservancy District commented that in the past records have been transferred for the WATERS database, and those records were mishandled and not all the information was returned. Mr. Bullock explained that the Roswell office has been the depository of those records for over 50 years and according to their attorneys this is by State statute. Mr. Bullock stated that those records are extremely important to them, and they are in the fifth year of their five-year accounting period and the records are used in the daily operation of the Basin. One of the problems with moving these files is that the farmers are not going to be able to take time and travel to Albuquerque to review the files. Mr. Bullock stated that he understands what the State is trying to accomplish with the WATERS database, however he thinks they also need to understand how important those records are to them. Mr. Bullock explained that they just want to make sure that the integrity of the files be maintained.

Secretary D'Antonio responded that there is no one more concerned about the integrity of the records than the State Engineer's Office. Secretary D'Antonio explained that they are going to scan every single piece of paper, to be abstracted. Staff will only be taking Hondo files and have agreed to bring back files if and when they are needed. Staff also left the Village of Ruidoso's file down there because of active action that is being done with that file.

Commissioner Wilcox asked what happens to records after they are taken to Albuquerque and scanned.

Secretary D'Antonio responded that one of the complete records is kept and archived in Santa Fe and the original record is sent back to the Roswell office.

Commissioner Wilcox commented he understands what the Office of the State Engineer is doing and he also understands the concerns from the people of Roswell. Commissioner Wilcox stated that he thinks that right now the people of Roswell are comfortable because they can go into the district office and handle the file in order to track what has happened to their water rights over the years and they are afraid that they are going to lose that.

Vice-Chairman White stated he has been made aware of the situation and has expressed some concerns to Director López. The concerns that Commissioner Wilcox expressed are real and yet everyone understands what is being done. Vice-Chairman White explained that the concern that he has had is that the office may experience some negative PR out of this.

Mr. Brent Bullock stated that he thinks the PVACD has always had a very good working relationship with the Office of the State Engineer and the Interstate Stream Commission. When they did have these concerns Director López and his staff did go down to Roswell to attend one of the board meetings, however they were unable to discuss the matter. Mr. Bullock stated he would like the opportunity to personally visit the Albuquerque facilities.

Secretary D'Antonio stated that he extended that invitation in the past and is re-extending it today. The WATERS staff is available to give a tour at any time.

Chairman Dunlap asked how long it is going to take for the files to be scanned.

Secretary D'Antonio responded that the Hondo files themselves are going to take approximately take 4 to 6 months. We are looking at a 14-year process to do the entire State.

Chairman Dunlap suggested having a person from PVACD stay with the files in Albuquerque while they are being scanned. The people in this state need to recognize the various water efforts that are going on within the State of New Mexico and how busy the Office of the State Engineer and the Interstate Stream Commission are.

AGENDA ITEM #6a– STAFF REPORT :

Director López introduced Beatriz Vigil to the Commission.

Director López reported on the following items:

Colorado

Staff has been successful in getting a Resolution of the Upper Colorado River Commission endorsing a hydrologic determination that would find that there is sufficient water in New Mexico's apportionment of Colorado River water to support the Navajo Gallup project and therefore the Navajo Settlement. This Resolution allows for the process to continue. Tanya Trujillo is in Washington, D.C. reviewing the proposed Legislation with the intent for it to be introduced as soon as possible. The Lower Basin States have received a copy of the Resolution, and hydrologic determination and are currently reviewing it. I attended a weather modification seminar in Boulder, Colorado and had indications from some of the Lower Basin States that they will probably be trying to develop some resolution of their own regarding the hydrologic determination.

The Seven Basin States organized the weather modification seminar I attended. One of the issues discussed as part of the Seven Basin States Agreement was ways to augment supply on the Colorado River. A couple of the things that are contemplated in that agreement are weather modification in the mountain states

and salt cedar control. We had many presentations about these two issues. Ultimately I expect that there will be some form of Seven Basin States program that will be put forth, and discussed as a topic at the July meeting.

There seems to be pretty conclusive evidence that cloud seeding processes work, in that you can create additional droplets for ice crystals. In many instances more precipitation can be generated. What also is very clear is that you cannot predict exactly where the precipitation is going to come or in what quantity. In certain instances depending on what the background pollutants are you may actually have a decrease in precipitation. Research does continue and there are many operating programs that are ongoing.

Navajo Reservoir

There has been a draft record of decision issued on Navajo Reservoir operations to meet endangered fish codes. There has also been a draft biological opinion on the Navajo Gallup project and that has been forwarded to the Department of Interior. We expect the biological opinion to be finalized within two months.

Rio Grande

Water supply has been very low and there has been some river drying. Water is being released out of the upstream reservoirs to meet both Middle Rio Grande demands and to allow for the recession in a managed fashion to allow for people can collect the Minnows and move them upstream. About 2,000 acre-feet per day is being released. If we continue at that rate we will use most of the water that is available this season, including potentially whatever the Bureau of Reclamation is able to acquire for additional supplemental flows.

Staff is moving forward with the draft Active Resource Management Regulations in the Lower Rio Grande Basin. There are meetings scheduled with the Lower Rio Grande water users group next week. Meetings are also scheduled with Texas and Colorado regarding water quality issues and the possibility of looking into salinity control.

Staff is working with the Federal water management agencies, interested stakeholders, MRGCD, the Pueblos, and all of the Collaborative Program participants about the water supply outlook for 2007 and beyond. We have indicated to them that we will be setting up a facilitated meeting of stakeholders in August to present additional ideas to better manage the limited water supply. Staff is working to put in place an improved management scheme by the 2007 irrigation season. Included in that is how we might manage in severe or extraordinary drought years, which is essentially what we are in right now. The current biological opinion contemplates wet, average, and dry scenarios and we need to expand that range of scenarios.

Staff has filled an opening brief in the silvery minnow appeal.

As it relates to the District Courts Court's ruling that the BOR has retained title to certain portions of the Middle Rio Grande project facilities we were asked by the MRGCD to file an amicus brief along with the Attorney General's office. The request was made fairly late in the process and we did not have a lot of time to look at it, so we determined that it was not appropriate for us to rush into this. Nevertheless the State does support the concept of transferring title back to the MRGCD through appropriate administrative processes.

Pecos

Staff continues to make progress on implementation of the Settlement. This past month we were able to add about 300 acres to the CID totals. We are currently at 2665 acres. We have not added any additional purchases within PVACD. We are currently at 4138 acres within PVACD. The targets for implementation are 4500 acres in CID and 7500 acres in PVACD.

Staff continues to be on course with the environmental impact statements that we are working on.

With regard to the compact accounting the River Master submitted a preliminary report indicating preliminary numbers of an additional credit to New Mexico of 24800. New Mexico filed some objections and the result should be around 23900. The final report will be out in a month. This will put us in the range of about 41,000 to 42,000 acre-feet of cumulative credit since 2004 on the Pecos.

Eagle Nest

There was a signing ceremony of the Eagle Nest Settlement Agreement in Angel Fire.

AGENDA ITEM #6b – SCREENING OF “WATER FOR A NATION” VIDEO RELATING TO THE NAVAJO NATION WATER RIGHTS SETTLEMENT:

Karin Stangl screened a video entitled “Water For A Nation”.

Karin Stangl stated that this film is going to be shown to our Congressional Delegation, State Legislators and anyone who is interested in supporting the Settlement.

Chairman Dunlap stated that the point of the film is to acquaint the eastern half of the United States with what we deal with and how people live in this region.

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Myron Armijo commented that he is in support of this video and it shows a human need for the Navajo Nation.

Questions from the Commissioners:

Commissioner Espinosa asked where the Rio Grande dried out.

Director López responded near Socorro.

Agenda items 10 and 11 moved up on the agenda.

AGENDA ITEM #10 – REQUEST FOR APPROVAL OF ISC RE-LOAN PROGRAM ALLOCATIONS FOR FISCAL YEAR 2007:

Craig Roepke and Coleman Smith requested the Commission's approval of ISC Re-Loan Program allocations for fiscal year 2007.

Questions from the Commissioners:

Vice-Chairman White commented that he wanted to note that in the data that was handed out he noticed that the Pecos Valley Artesian Conservancy District was not listed as an applicant or recipient of any proposed funding. Historically that agency has been a major borrower from that fund and it has been very frustrating and disappointing on his part that not only has that fund been so depleted, but the guidelines have caused the PVACD to disassociate themselves from that particular fund.

Mr. Brent Bullock added that the PVACD until recently has borrowed over 20 million dollars for conservation projects. About three years ago they started getting into situations where net depletion came up, and the concerns with that led the PVACD to continue conservation measure without the Re-Loan program. This is in part because PVACD is not able to fit within the guidelines of the Re-Loan program.

Commissioner Garcia moved, Commissioner Wilcox seconded, to approve the request for approval of ISC Re-Loan Program allocations for fiscal year 2007. The motion carried unanimously.

AGENDA ITEM #11 – REQUEST FOR APPROVAL OF ACEQUIA PROJECTS FOR FISCAL YEAR 2007:

Ray Acosta requested the Commission's approval of acequia projects for fiscal year 2007.

Commissioner Garcia moved, Commissioner Wilcox seconded, to approve the request for approval of acequia projects for fiscal year 2007. The motion carried unanimously.

AGENDA ITEM #7 – CLOSED SESSION--discussions regarding current and threatened litigation and the acquisition of real property and water rights in accordance with the Open Meetings Act, NMSA 1978, Article 10, Chapter 15, Section 1, Subsections H(7) and H(8) regarding the Pecos, and Canadian Rivers:

Commissioner Wilcox moved, Commissioner Espinosa seconded, to meet in closed session pursuant to the provisions of the Open Meetings Act NMSA 1978, Article 10, Chapter 15, Section 1, Subsections H(7) and H(8), regarding the Pecos, and Canadian Rivers. A roll call vote was taken as follows:

Commissioner Espinosa - yes
Commissioner Wilcox - yes
Commissioner Garcia - yes
Vice Chairman White - yes
Chairman Dunlap - yes
Secretary D'Antonio – yes

The Commission met in executive session.

A motion was made and seconded to return to open session. The motion carried unanimously. The only items discussed in closed session were those set out in the motion to go into closed session and no action was taken.

AGENDA ITEM #8 – LUNCH:

The Commission had a working lunch during closed session.

AGENDA ITEM #9 – SEVEN RIVERS AUGMENTATION WELL DRILLING PROJECT COMPLETION REPORT:

Ali Elhassan gave a power point presentation entitled "7 Rivers Well Field Project Completion of Wells Drilling". [attachment 2]

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Questions from the Commissioners:

Chairman Dunlap asked whether Well E, 3 to 9 gpm/ft was not very successful.

Ali Elhassan responded that when compared to the specific capacity of other wells in the area, the highest well being at 2 gpm/ft, Well E is doing much better in comparison.

Director López asked what the overall capacity of the well is.

Ali Elhassan responded that the total over a 24-hour pumping test was 1000 gpm.

Director López asked if this well field capacity alone meets the Settlement requirements.

Ali Elhassan yes it will meet the Settlement minimum. However in some years we may be required to deliver 30,000 acre-feet per year.

Director López asked if the Lake Arthur well field, and the Rio Felix are in addition to the Seven Rivers well field.

Ali Elhassan responded that this was correct.

Vice-Chairman White asked that if the pumping equipment is included in the completion of this project.

Ali Elhassan responded that the installation of the pumping equipment is included in the pipeline design, not this project.

Commissioner Espinosa asked for clarification on the term airlift.

Elisa Simms responded that airlift is a development process where air is blown down and forces the cuttings to come out.

Commissioner Garcia asked if this is done before pumping the acid.

Elisa Simms responded yes you develop a well before acidizing.

Commissioner Garcia asked to what depth the pipe goes down when acidizing.

Ali Elhassan responded that the pipes usually go down to screen depths to the production zone, and the wells are then welded closed because it is a very violent reaction. The well must then stay closed for two days before pumping may resume.

Chairman Dunlap asked if the cost of acidizing is included in the figures presented.

Ali Elhassan responded that yes the cost is included and the cost is about 20,000 per well to acidize.

Chairman Dunlap asked why we chose this particular sight for the wells if we are only getting 3gpm/ft.

Ali Elhassan responded that it was part of the Agreement with Seven Rivers Incorporated to have five wells outside of the property and five within.

Director López added that part of the consideration there was to try and keep certain distances away from existing wells and also trying to space the wells we drilled with relation to one another.

AGENDA ITEM #12a – REQUEST FOR APPROVAL OF CONSTRUCTION OF GOLF COURSE AT UTE LAKE RANCH WITHIN FLOWAGE EASEMENTS:

Mr. Lonny Phelps, Ute Lake Ranch engineer with Phelps Engineering, stated that when he and Mr. Jason Garside started working with Ute Lake Ranch a year and a half ago, and began the Quay County process they found the design criteria in Quay County and the surrounding areas was not as comprehensive as they would have liked. They began to research areas like Albuquerque, Denver, Las Vegas, Phoenix, and the arid southwest to come up with a compilation of design criteria that they felt could be used for the surrounding area. The whole approach on some of the materials submitted today is regionally based from the EPA. Mr. Phelps explained that they have submitted documents to the ISC based on their preliminary design that show the basic design approach using the guidelines that they have compiled. Ute Lake Ranch has submitted many documents to the ISC and feel that at this time they are at a crossroads in the project.

Mr. Phelps stated that they feel that most of the preliminary design is complete, and they are getting to the point with ISC staff where they will be moving into the final design of the golf course. Over the course of the last few months ISC staff have expressed concerns and had questions over the final design. Ute Lake Ranch has had correspondence back and forth with the ISC staff about their concerns with water quality of Ute Reservoir. All the documents that have been submitted by Ute Lake Ranch include information regarding the golf course, golf course design, water quality, how the golf course will be managed, operations and maintenance, and how the district is going to handle long-term maintenance of this golf course while ensuring water quality protection. Mr. Phelps stated that they will hopefully be the first ones to use Ute Reservoir as drinking water, so

they have a vested interest in maintaining the water quality of Ute Reservoir just as much as anyone else.

Mr. Phelps explained that he has prepared a schedule for ISC review and approval of final design drawings. One of the most important things is to go through these drawings in a progressive manner. Mr. Phelps stated he would like to see a process developed where over the next 60 days ULR submits documents to the ISC for review, and the ISC then responds back with their comments to resolve any issues or minor technicalities. Ute Lake Ranch is comfortable with their design approach and it is reflected in all the documents they have submitted. They are at a point where they need to resolve any technical issues in order to move into the final design stage.

Mr. Jason. Garside gave a power point presentation entitled "Ute Lake Ranch 6-22-06". [attachment 3]

Mr. Bruce Hamon, Ute Lake Ranch principal, stated that Ute Lake Ranch is not requesting permission to build habitable structures within the ISC easement. All habitable structures will be built on Ute Lake Ranch property. Ute Lake Ranch is providing all the development information to the ISC in order for staff to become familiar with what is adjacent to Ute Reservoir regardless of the fact that it is not within the ISC easement. The construction of the golf course is what Ute Lake Ranch is requesting to build within the ISC easement property.

Mr. Hamon explained that they have ceased the fill and build activity due to the fact that there were some possible issues concerning dam safety that Secretary D'Antonio had warned them about. To avoid problem or concerns with dam safety issues Ute Lake Ranch has redesigned the golf course and created a net zero gain of stage storage impact. With the new design there is no stage storage impact.

Mr. Hamon stated that Ute Lake Ranch feels that along with the Nicklaus golf course design, which has the creditable experience in environmentally sensitive areas, and Ute Lake Ranch environmental engineers, they have met and exceeded Federal, State, and local standards. Ute Lake Ranch welcomes the activities and suggestions from the ISC in order to further belay the fears that the golf course would have any serious impact to Ute Reservoir. Mr. Hamon said that Ute Lake Ranch believes that it is taking a piece of property that has spent years and decades with noxious weeds, where erosion control has not been maintained, and Ute Lake Ranch is going to convert this into something more enhancing and acceptable thus reducing the impact of negative water quality issues.

Mr. Hamon said that Ute Lake Ranch is bringing community water systems to the area on their own equity. The water system community that Ute Lake Ranch is going to provide will regulate the impact to the Reservoir. It is substantially more

cost effective to minimize the impact to the Reservoir than to treat the water that Ute Lake Ranch residents will be drinking themselves. Mr. Hamon stated that he is proud of the fact that in the 40 years that Ute Reservoir has been in place Ute Lake Ranch will be the first domestic beneficial use for drinking water to people who are New Mexico citizens and tax paying citizens.

Mr. Chuck Dumars stated that 20 years ago the Governor of New Mexico appointed a task force, named the Governor's Water Loss Study Committee. The Task Force was asked to address two things. The first was to determine supply and demand in terms of water, and two, how to keep other States from taking our water. The conclusion was that we needed to empower the Interstate Stream Commission to become a viable independent agency that would review water plans. Mr. Dumars said that the legislation he drafted was passed, and he also personally wrote in the report that he was extraordinarily glad to see Ute Reservoir constructed with State funds for the purpose of supporting conservation storage, which includes domestic use and related municipal uses. Mr. Dumars explained that if we could put the water to beneficial use in New Mexico we could argue that we are entitled to it under the Canadian River Compact and that New Mexico is a market participant.

Mr. Dumars stated that when he heard about the Ute Lake Ranch project he thought to himself that finally we are in a position to take action on a recommendation more than 20 years old, which is to demonstrate our need for that water. We certainly have a tremendous need for the pipeline that has been anticipated, and he hears good things about authorization in Congress and that is an exciting possibility, but here we have a tangible concrete project.

Mr. Dumars stated that the conditions that should be placed upon the approval of the golf course are the following:

- The ISC and Ute Lake Ranch agree on an acceptable plan for protecting the quality of the water in Ute Reservoir.
- The ISC and Ute Lake Ranch agree on a method for ensuring that the ISC incurs no additional financial burden as a result of the construction of the golf course within the flowage easement.
- Ute Lake Ranch demonstrates it has complied with all applicable laws relating to land use of the property as a golf course.

Mr. Dumars stated that the ISC is not an agency that promulgates water quality standards, the Environment Department does that, the EPA does that, and local entities can do that. The ISC does not have jurisdiction to regulate water quality, however they do have an obligation to protect the quality of the Reservoir.

Mr. Dumars stated that Ute Lake Ranch is asking for an approval that the golf course within the flowage easement is permissible, and is acceptable if certain conditions are met. Mr. Dumars said that he believes it is time for a yes or no

answer from the Commission. It is a great project and if the Commission cannot agree then Ute Lake Ranch can do other things. If Ute Lake Ranch is told that they cannot build the golf course in the flowage then that is an effective taking of their fee land, all the ISC has is an easement, underlying fee title belongs to Ute Lake Ranch. Mr. Dumars stated that if a person has an oil and gas lease on your property and they say that you cannot do anything on your own property because it may interfere with their oil and gas lease, it make no sense. The same applies here. What Mr. Dumars believes is going to happen is that Ute Lake Ranch and the ISC will get together and work out these issues. Mr. Dumars said that it is hard for him to advise Ute Lake Ranch to spend all the additional money and resources to move forward if they cannot get a simple answer from the Commission that the golf course is a permissible use. If it is not a permissible use and the Commission does not want the golf course there then let's understand why. Mr. Dumars stated that he feels a golf course is a permissible use and thinks the Commission should approve it.

Questions from the Commissioners:

Chairman Dunlap commented that Mr. Dumars made a statement earlier that the Interstate Stream Commission does not set standards, however the ISC is the owner of the property and it is the Commission's public duty to protect the water quality at Ute Reservoir.

Mr. Chuck Dumars responded that what needs to take place is drafting of a contract between the ISC and Ute Lake Ranch that plainly imposes the obligations that should be complied with.

Chairman Dunlap clarified that earlier in the presentation Mr. Phelps stated that Ute Lake Ranch took design guidelines from Albuquerque and surrounding areas that were then used to set the guidelines for what is going to be done at Ute Lake. Chairman Dunlap asked for an example of the design guidelines in the Albuquerque or other areas that were adjacent to drinking water sources.

Mr. Phelps stated that for specifically drinking water sources they had found none. We have looked at areas near lakes and streams, but we have not specifically targeted one that is drinking water. Regardless of the fact of it being drinking water or not we are still going to protect the water quality.

Chairman Dunlap stated that it would be easier for him to understand if they had an example of another drinking water lake, which has been successfully protected.

Mr. Jason Garside stated that they have consulted with Lake Tahoe, which has a golf course along the lake, which is used as a back up drinking source and that Lake is seriously protected. We are going beyond the standards that are in place at Lake Tahoe.

Commissioner Espinosa asked why Ute Lake Ranch does not put the golf course on their own fee land outside the flowage easement.

Mr. Bruce Hamon responded that it is because it enhances the project to have the golf course in the proposed location, and feel that as property owners they want to best utilize the property.

Commissioner Espinosa asked that when Mr. Hamon says that by putting the golf course within the ISC easement property would enhance their property what exactly does this mean?

Mr. Bruce Hamon responded that they feel one it is a beautiful thing and two it gives them the use of their property that they would not be putting habitable structures on the easement, so it makes the most sense for the use of the property.

Commissioner Espinosa asked for clarification on the ISC easement and the ownership of the property.

Mr. Chuck Dumars responded that the fee title to the land is real property that belongs to Ute Lake Ranch. Mr. Dumars stated suppose someone owns an easement across the property for the purpose getting through the property, the easement cannot be interfered with, a gate cannot be put across the easement, however the land belongs to the owner and that is the fee title. Ute Lake Ranch's position is that we can put a golf course in the flowage easement and it will not affect the capacity to flood because it is not a structure it is only grass. Under the contract Ute Lake Ranch would be 100% completely responsible and have their own insurance on the golf course and it would not affect the ISC. Ute Lake Ranch does not feel that it is proper to deny them the use of their own land.

Vice-Chairman White asked in your due diligence did you run into any EPA reports for example that tested soil chemistry in relation to the use of effluent water. I can remember a report that was prepared for the city of Roswell thirty or forty years ago testing soil chemistry of farm land that was utilizing effluent water, there was control land and effluent use land, and if I am not mistaken that report suggested that the soil chemistry below about 30 to 36 inches did not change in either of the two groups, suggesting that the turf in your catchment basins consume the nitrates that might otherwise reach the body of water.

Mr. Phelps responded that they have not come across a report like that yet.

Mr. Jason Garside added that as part of the turf management program mentioned in the power point presentation, there will be soil sampling around the golf course to determine nitrogen levels to ensure the right amounts are being applied.

Commissioner Espinosa asked if the golf course is going to be an arid lands golf course having grass that can withstand a dry climate, it is not going to be a lot of green grass that would demand large amounts of water?

Mr. Bruce Hamon responded that conservation is a primary concern of ours and that has been at the top of the list for the Nicklaus design group, and we are looking at reusing water.

Commissioner Espinosa responded that when you give specifications are you going to be giving specifications to the types of grass to be used. I know in Farmington they built a beautiful golf course that comports with the piñon and the environment, and there is not much grass on there.

Mr. Bruce Hamon responded yes we are designing to the environment that we will be building in.

Commissioner Espinosa stated that golf courses are very polluting entities, regardless of where or how you build them. There is a lot of pesticide use and, a lot of herbicide use in golf courses and I am very concerned about both the ground and surface water contamination. I have not seen any plans to minimize this, I know you mention integrated pest management, but that can mean many things. There is going to be erosion and pollution and those are the hardest things to treat to remove from water.

Mr. Bruce Hamon responded we have this concern as well. You haven't seen the plans because they haven't finalized the design, but we have scheduled a process with ISC staff in the next 60 days to provide those plans for their review, to work through these issues.

Commissioner Espinosa stated that all of this is going to be in a contractual agreement, so one of my concerns is how to enforce that agreement. We need to have a structure in order to avoid courts.

Mr. Chuck Dumars responded that we could structure the contract to have measuring points and monitoring evaluations comparable to regulation to give you some protection.

Secretary D'Antonio stated that the hydrology is pretty far from being finalized because it could fall into the category of a high hazard facility and the PMF (Probable Maximum Flood) would need to be routed through that. Typically in a preliminary design you're going to have the hydrology fairly nailed down so you are going to go ahead with a preliminary golf course design despite the fact that you have not done the revised hydrology that could raise the levels of the flowage easement, so what I am asking is are you really that close to going into

your final design if you have not looked at the possible raising of that flowage easement and how that may affect the preliminary design.

Mr. Phelps responded that the golf course is in the flowage easement now and whether it raises or not, it is still going to be flooded.

Secretary D'Antonio stated but if you are going to try and contain that waste with in the golf course area you are going to have to have part of that design that includes the revised hydrology numbers based on the PMF.

Mr. Phelps stated that we are looking at a hundred-year event and when we design our retention ponds and water quality ponds none of the drains that we are looking at can capture 500,000 cfs.

Secretary D'Antonio stated the hundred-year storm design may not correct if the PMF is not correct.

Mr. Chuck Dumars stated the point is that we are capable of modifying design to address the possible maximum flood event, so whether or not you are looking at one or five hundred years either way we are still going to be in a flood easement, if you have to redesign after the results come out to move some of the structures or modify them that is not a problem for us. I appreciate the concern and I realize that this is important for other things, but it is not important for the golf course.

Chairman Dunlap stated that the Commission has not drafted a resolution, however we have drafted a motion.

Commissioner Garcia read the motion: To approve construction of the Ute Lake Ranch golf course on the ISC easement under filling No. 2 with the conditions that no dirt can be moved in either phase off the golf course until the ISC staff and Commissioners have reviewed and approved the final golf course design and the ISC and URL agree on the easement encroachment fees based on the water quality sampling and monitoring requirements.

Mr. Chuck Dumars responded that there are a couple of items important to us. ISC needs to approve the golf course design to ensure that nothing in the design impairs the ISC flowage easement, because that is the basis for our relationship. The second point was that we would have mutual agreement as to water quality protections and URL would agree on fees, I do think that there are two things at work when we discuss fees. It is one thing when trying to collect a fee that fully protects the ISC from any expenses it might incur because the golf course is there. Another one is a fee that which is designed to be a cost of doing business, which is a fee because you can. The former fee is absolutely fair and should be imposed. However, to charge a fee because we can is not a permissible fee. The motion needs to be at a minimum that we agree on a fee that fully

reimburses the ISC for any costs incurred because of the existence of the golf course in the easement.

Commissioner Espinosa stated that the costs are related to the cost of monitoring.

Mr. Chuck Dumars replied that is exactly right, and I think that if we say cost of monitoring and protection that would be sufficient.

Director López stated we need to protect the ISC's flowage easement and water quality.

Mr. Chuck Dumars responded yes I misspoke because I meant protection of the flowage easement and the Lake.

Commissioner Espinosa stated that Ute Lake Ranch has proposed a 60-day schedule which staff has generally agreed to. My only concern is that I do not want this to come back to the Commission at the last minute and find it is not an approvable item. I want there to be a structure in place to communicate with the Commission and update them on issues, so we are not hearing about things late in the game.

Mr. Chuck Dumars stated that this is a wonderful idea.

Vice-Chairman White commented that the Commission should not impair your freedom to design a golf course, and I can see where this may become a lawyer's paradise. This Commission is for you and we want to do it right. I do not want to impair your ability to do what you want to do as long as you do not violate the deal that we are making.

Public comments made regarding the Ute Lake Ranch development by:

- Bill Curry – Quay County Commissioner
- Jim Lafferty – City of Tucumcari
- Antonio Apodaca – Tucumcari
- Franklin McCasland – Quay County

Commissioner Garcia moved, Commissioner Espinosa seconded to approve construction of the Ute Lake Ranch golf course on the ISC easement-under filing No. 2, subject to the following conditions: No dirt will be moved on any Phase of the golf course until: 1. ISC staff and the Commission have reviewed and approved the final golf course design and plans to ensure that any potential pollution is minimized, and 2. ISC and Ute Lake Ranch agree on easement encroachment fees based on water quality sampling and monitoring performed by ISC, or a third party agreed to by ISC and Ute Lake Ranch. The motion carried unanimously.

AGENDA ITEM #12b – REQUEST FOR APPROVAL OF THE BHI ELEVATION/CONTOUR SURVEY PROCESS, USING WITNESS POINTS TO ESTABLISH ELEVATION CONTOURS:

Coleman Smith stated that the staff recommendation is that the ISC adopt the BHI proposal for resurvey of 3787 and 3806 foot contours using witness points. A recommendation for resurvey of the contours does not constitute any recommendation for swap for or purchase of those lands by Ute Lake Ranch.

Questions from the Commissioners:

Director López asked the elevation that you stated 3787, is that the flowage easement elevation.

Brad Sumrall responded it is the spillway.

Commissioner Garcia moved, Commissioner Espinosa seconded to approve the request for approval of the BHI elevation/contour survey process, using witness points to establish elevation contours. The motion carried unanimously.

AGENDA ITEM #12c – REQUEST FOR APPROVAL OF THE REPURCHASE BY UTE LAKE RANCH OF FEE SIMPLE LANDS ACQUIRED BY THE ISC ABOVE THE 3787 FOOT ELEVATION, INCLUDING AN EXCHANGE OF FEE SIMPLE LAND BETWEEN UTE LAKE RANCH AND ISC:

Craig Roepke stated that staff recommends the Commission approve repurchase only of those lands above 3787 that are owned in fee by the ISC and in Ute Lake Ranch filling No.1, but only after a survey, an appraisal and potentially approval by the State Board of Finance, if needed.

Questions from the Commissioners:

Commissioner Espinosa requested that our Director look into whether or not we need pre-approval by the State Board of Finance.

Director López responded that this will be done.

Commissioner Espinosa moved, Commissioner White seconded to approve the request for the repurchase by Ute Lake Ranch of fee simple lands acquired by the ISC above the 3787-foot elevation in Ute Lake

Ranch Filing No. 1, with the conditions that a survey and appraisal are done, and it is verified if prior approval by the State Board of Finance is needed. The motion carried unanimously.

AGENDA ITEM #12d – REQUEST FOR APPROVAL OF REPURCHASE BY UTE LAKE RANCH OF LANDS ACQUIRED BY ISC ABOVE 3806' ELEVATION CONTOUR FOR FLOWAGE EASEMENT:

Coleman Smith stated that staff recommends that the Commission defer action on this item until the ongoing hydrologic analysis is completed and has been approved by OSE Dam Safety. Until that time, there is no certainty on where the proper easement elevation lies.

Questions from the Commissioners:

Commissioner Wilcox asked how long the hydrologic analysis is going to take.

Craig Roepke responded he anticipated this is going to take at least one month.

Commissioner Wilcox asked if this has a great impact on the project.

Mr. Bruce Hamon responded we would like to have a more definitive date instead of at least a month.

Commissioner Wilcox moved, Commissioner Espinosa seconded to defer action on agenda item #12d, the request for approval of repurchase by Ute Lake Ranch of lands acquired by ISC above 3806' elevation contour for flowage easement. The motion carried unanimously.

AGENDA ITEM #12e – REQUEST FOR APPROVAL OF CONSTRUCTION OF BOAT DOCKS ON UTE LAKE ADJACENT TO LOTS NO. 69 AND 15 IN UTE LAKE RANCH FILING NO. 1:

Coleman Smith stated staff recommends that per the ISC boat dock policy not more than 20 boat docks can be approved by the ISC until the Ute Master Plan is completed. There is currently a waiting list for boat docks at Ute Reservoir and allowing Ute Lake Ranch a boat dock at this time would violate the ISC policy.

Mr. Bruce Hamon stated Ute Lake Ranch was asked by the Logan community to step in and do a repair of the marina facility at the Ute Lake Marina in Logan, and Ute Lake Ranch as a good corporate citizen we were not really interested in becoming a concession there, a marina owner for the purpose of making money, however we have spent \$400,000 improving and placing a new marina concession for that area. Again we are not making anything on this deal and the

reason I mention this is because Ute Lake Ranch is probably the biggest holder of frontage land on the Reservoir, we have no boat docks and having gone to the effort in helping Logan we would request a consideration or variance for the possibility for two boat docks even if it were only on a temporary basis.

Commissioner Espinosa moved, Commissioner Wilcox seconded to defer action on agenda item #12e, the request for approval of construction of boat docks on Ute Lake adjacent to lots No. 69 and 15 in Ute Lake Ranch filing No.1, until further reviewed. The motion carried unanimously.

AGENDA ITEM #12f – REQUEST FOR APPROVAL OF EXTENSION OF TIME FOR REPURCHASING FEE SMPLE AND FLOWAGE EASEMENT LANDS FROM JUNE 1, 2008 THROUGH JUNE 1, 2010:

Coleman Smith stated staff recommends that the Commission to not approve this request. The process can easily be accomplished within the 2008 time frame using the elevation survey process that was approved earlier.

Questions from the Commissioners:

Commission Wilcox asked Mr. Hamon why are you requesting this, what is the advantage in making this request.

Mr. Bruce Hamon responded we do not have confidence at this point that an agreement is eminent, we felt that two years more would help us. If it is deferred at this point we would like more discussion on this.

Commissioner Espinosa moved, Commissioner Garcia seconded to not approve the request for approval of extension of time for repurchasing fee simple and flowage easement lands from June 1, 2008 through June 1, 2010. The motion carried unanimously.

AGENDA ITEM #13 – PRESENTATION ON MIDDLE RIO GRANDE RESERVOIR OPERATIONS:

The Commission deferred the presentation on the Middle Rio Grande Reservoir operations (agenda item #13).

AGENDA ITEM #14 – SET FUTURE MEETING DATE, OTHER BUSINESS AND INFORMATIONAL ITEMS NOT REQUIRING ISC ACTION:

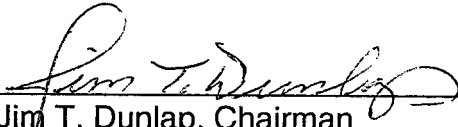
The next ISC meeting will be held on August 2, 2006.

Commissioner Garcia moved, Commissioner Wilcox seconded to have the next meeting on August 2, 2006 in Albuquerque, New Mexico.

AGENDA ITEM #15 - ADJOURN: Commissioner Wilcox moved, Commissioner Garcia seconded, to adjourn the meeting. The motion carried unanimously. The meeting was adjourned at 5:37 p.m.

Minutes were prepared by Sabrina Nieto and edited by Tanya Trujillo.

Approved at the August 2, 2006 meeting of the Interstate Stream Commission.



Jim T. Dunlap, Chairman

8-2-06

Date