

John Whipple

From: scone
Sent: Monday, January 19, 2004 5:52 PM
To: jwhipple; waterjim; jd'antonio
Cc: callie.gnatkowski; mike.connor; adamatronics; ecoriz; BParry; lundstrm; senator.bingaman; attorney; manager; council2; mayor; alp; sjwcoffice; rashman; laurab; markl
Subject: NM Inspection of Public Records Act Request

ATTENTION: NEW MEXICO INSPECTION OF PUBLIC RECORDS ACT REQUEST
(transmitted electronically)

19 January 2004

"electors Concerned about Animas Water" -- CAW
1217 Chaco Avenue
Farmington, NM 87401

John D'Antonio, New Mexico State Engineer
Office of the State Engineer
Secretary Interstate Stream Commission
PO BOX 25102
Santa Fe, New Mexico 87504-5102

Dear Mr. D'Antonio:

Comments by your legal counsel John Utton at the annual meeting of the San Juan Agricultural Water Users Association have raised concerns which are the subject of this records request. For some sixteen months the State of New Mexico ["State"] has participated in the Navajo-San Juan River Federal Indian Water Rights Negotiation ["Negotiation"] with the Navajo Nation ["Tribe"] and the Navajo-San Juan River Federal Indian Water Rights Negotiation Team ["Team"] seeking to craft a settlement of the Tribe's claims to water from the San Juan River. During that time no other entities, groups or individuals have been permitted to attend or participate in the Negotiation.

Mr. Utton has observed in Public Meetings over the past few weeks that strong pressure from the New Mexico Congressional delegation has been driving and accelerating the settlement process, forcing the State to severely restrict the time allowed for public comment on your proposed San Juan River Basin in New Mexico Navajo Nation Water Rights Settlement Agreement. At this time it is important for us to know what communication regarding the Negotiation --if any-- occurred between the State and our New Mexico Congressional delegates or their staff.

Therefore, we would like an opportunity to view all documents related to the Negotiation which have been shared with members of New Mexico's Congressional delegation by the State -- specifically documents within the timeframe from September 2002 to December 5, 2003, referencing any work of the Team. Such documentation may include --but would not necessarily be limited to-- correspondence to or from officials of the New Mexico Interstate Stream Commission, Office of the State Engineer, or legal representatives or consultants employed by the State, and the following individuals:

- 1) Senator Bingaman and/or his staff, including Michael Connor and Mark Edwards
- 2) Senator Domenici and/or his staff, including Callie Gnatkowski and Anne Kathryn Claassen

Additionally, we are concerned that certain interested parties not actually included in the Team's Negotiation may nonetheless have been provided information about the progress of the Negotiation through correspondence with the State. Therefore, we request an opportunity to view correspondence related to the Negotiation dated anytime between September 2002 and December 5, 2003 to or from officials of the New Mexico Interstate Stream Commission, Office of the State Engineer, or counsel or consultants of the State and the following individuals, businesses, or public entities:

- 1) Mark Edwards
- 2) Daniel Israel
- 3) City of Gallup
- 4) Ute Mountain Ute Indian Tribe
- 5) Jicarilla Apache Nation
- 6) City of Albuquerque
- 7) San Juan Water Commission
- 8) Arizona Public Service Company
- 9) Public Service Company of New Mexico
- 10) BHP Billiton

By virtue of its status as an agency of the State of New Mexico, the New Mexico State Engineer's Office and the Interstate Stream Commission are subject to New Mexico's Inspection of Public Records Act (NMSA 1978, Chapter 14, Article 2). Section 14-2-1 of this Act states that every person has a right to inspect any public records of this State save those which are specifically excepted. Section 14-2-8 sets forth the requirements for a written request to view such records and the requirement that the custodian of those records permit the inspection within fifteen (15) days or explain in writing, within three (3) business days after receipt of the request, when that request will be acted upon.

I look forward to your timely written reply in compliance with provisions of the New Mexico Inspection of Public Records Act as stated above.

Sincerely,

Steve Cone
for "electors Concerned about Animas Water" -- CAW --

1217 Chaco Avenue
Farmington, New Mexico 87401
(505) 327-0743

References: alpcentral.com

<http://www.macinstruct.com/alpcentral/locomotivebreath.html>

<http://www.macinstruct.com/alpcentral/cpanavajo.html>