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# United States Senate

COMMITTEE ON  
ENERGY AND NATURAL RESOURCES

WASHINGTON, DC 20510-6150

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June 29, 2007

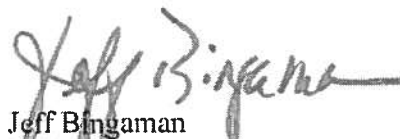
John D'Antonio  
State Engineer  
State of New Mexico  
P.O. Box 25102  
Santa Fe, NM 87504-5102

Dear Mr. D'Antonio:

I would like to take this opportunity to thank you for appearing before the Senate Committee on Energy and Natural Resources on Wednesday, June 27, 2007, to give testimony on S. 1171, a bill to amend the Colorado River Storage Project Act and Public Law 87-483; to authorize the construction and rehabilitation of water infrastructure in Northwestern New Mexico; to authorize the use of the reclamation fund to fund the Reclamation Water Settlements Fund; to authorize the conveyance of certain Reclamation land and infrastructure; to authorize the Commissioner of Reclamation to provide for the delivery of water; and to resolve the Navajo Nation's water rights claims in the San Juan River basin in New Mexico.

I am enclosing a list of questions, which have been submitted for the record. If possible, please respond to these questions by Monday, July 16, 2007.

Sincerely,



Jeff Bingaman  
Chairman

**Questions for Mr. D'Antonio**  
Energy Committee Hearing- June 27, 2007

Questions from Senator Bingaman:

1. The State is making an up-front \$25 million contribution to this settlement. Also, as you note, over the past 4 years it has invested another \$25 million towards distribution systems that will ultimately hook up to the Project. That seems to be much more substantial contribution than other states have historically provided. This settlement is, however, substantially larger than most.
  - *Is it possible that the State of New Mexico may be able to increase its cost-share commitment towards the Settlement to address at least a portion of the federal concerns? Are there other areas where the State is committing resources to move the settlement and project forward, which have not yet been recognized?*
2. Reviewing Mr. Guenther's testimony, it appears that Arizona objects to S. 1171 because (1) the Navajo Nation has ongoing litigation with Arizona concerning the Colorado River in Arizona, and it wants to delay the NM settlement until it settles those issues; (2) Arizona believes its interests are being disadvantaged by New Mexico using its full compact entitlement to the Colorado River; and (3) provisions in the bill need to be revised to more correctly address inconsistencies with the law of the River.
  - *What is your perspective on Arizona's objections? Are there certain objections that New Mexico is prepared to address through changes to the legislation? Are there other objections that would undermine the support that has already been secured from the other Basin states?*
3. The Albuquerque Bernalillo County Water Authority's testimony suggests that there's been no analysis of how new contracts could affect the San Juan-Chama water supply. There are several other issues raised by the Authority that seem to indicate that the settlement may pose a threat to the San Juan-Chama project. Your written testimony suggests the opposite.
  - *Has there been any analysis of the effect of new contracts? Do you still believe that the settlement protects the interests of the San Juan-Chama Project? And will you sit down with the Authority to provide clarification or resolve any differences that exist over the settlement?*
4. Your testimony states that you believe the settlement benefits and protects the interests of all water users in the State.
  - *Please identify the key aspects of the settlement that protect other water users in the San Juan Rive basin.*

5. One set of testimony submitted for the record asserts that the Navajo settlement will allow the Tribe to export New Mexico's water to other states including Nevada.

- *Does the Navajo settlement and S. 1171 allow the Navajo Nation to export New Mexico's water to other States? What provisions of law exist to preclude that from happening?*

Questions from Senator Domenici:

Mr. D'Antonio, thank you for joining us today. The state of New Mexico has one of the most important and difficult decisions to make regarding this settlement. As you know, Congress is not responsible for approving the allocation of water in this settlement, the State is.

*Questions:*

1. Do you believe that the water allocation agreed to by the state of New Mexico and the Navajo Nation adequately protects current non-Indian uses and provides for future needs?
2. Are you convinced that non-Indians are better off with this settlement than they would be without it?
3. How do you respond to the San Juan Agricultural Users' Association's claim that they will be hurt by this settlement? Please describe the benefits of the settlement to them.

This settlement has enormous non-Indian benefits, including the construction of the Navajo-Gallup Pipeline that would serve the City of Gallup. Additionally, the legislation removes the possibility that the Navajo Nation would receive a large water rights award from the courts, curtailing non-Indian uses. However, the legislation only requires the state to contribute \$25 million towards the settlement.

*Questions:*

1. Considering its enormous benefits to the state of New Mexico, do you believe that the State could contribute more towards the settlement?
2. Will you commit to working with the State legislature to secure more State money for the settlement?

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Public Law 87-483 requires that the Secretary of the Interior make a hydrologic determination that water will be available under New Mexico's allocation under the Upper Colorado River Compact before new contracts are issued at Navajo Reservoir. This settlement legislation would require new contracts at Navajo Reservoir.

*Questions:*

1. Are you confident that this water exists?
2. Please describe the steps your office has taken to ensure that that water will be available.
3. Do you believe that water would be available to accommodate growth in the Four Corners area? If so, for how long?