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San Juan River Basin in New Mexico Navajo Nation Water Rights Settlement Agreement

Dear Governor Richardson:

Please permit us to be blunt.

We believe the Office of the State Engineer ["OSE"] and the Interstate Stream Commission ["ISC"] have been acting with a reckless disregard for the welfare of New Mexicans. The Public's business is being done in private with the participation of the State of New Mexico ["State"] in negotiation of the proposed "San Juan River Basin in New Mexico Navajo Nation Water Rights Settlement Agreement" Settlement"].

Over the last year, State officials have -- as a prerequisite for negotiations with the Navajo Nation Tribe"] and the Federal Government -- imposed absolute secrecy by arbitrarily excluding public utilities and other interested parties with competing claims to water in the San Juan River Basin, New Mexico ["Basin"]. The closed nature of these negotiations represents a flagrant denial of due process rights with the potential to severely undermine the values of certain personal and Public property holdings.

On December 5, 2003, State officials unveiled their 126-page Settlement with provisions for two Public meetings and a restricted comment period to run through the holiday season until January 15, 2004. Public entities, grassroots activist groups, and rank and file citizens have voiced vehement objections to the extremely narrow time frame allowed for comments on the Settlement. To date, all pleas for an extended comment period have fallen on deaf ears.

Like Governor Diane Denish expressed concern last week that water is "a highly volatile, emotional issue." This Settlement can be characterized as truly explosive because legitimate stakeholders have been deemed irrelevant and barred from discussions, while State officials have failed to safeguard the State's most precious resource.

Clearly, staff of the OSE and ISC have no authority to effectuate a Settlement that runs counter to State law. Neither does State law allow the Office of the Governor or the Attorney General to endorse a Settlement which would unilaterally cede authority vested in the OSE or abandon to the Federal government and the sovereign Tribe duties normally required of the OSE.

Let us be clear: It is our office's duty to say, without detailing the various flaws and faults in the Settlement, that the Public and other interested parties deserve both a substantial extension in the comment period -- at least sixty days -- and a real opportunity for substantive open participation in the process before the State makes any formal action on the Settlement.

On March 6, 2002, you stated, "I truly care about the citizens of our state who have not had a voice in our government. If I am elected Governor of New Mexico these people will have a voice in me. They will be listened to, and I will respond to their needs." Accordingly, Governor, we look forward to the swift and forceful action of your Office to uphold the public trust and work toward a common solution for all.

Sincerely,

Steve Cone, et al.