

**Attachment 6**  
**Scoping Summary Report**

# Scoping Summary

## Environmental Assessment of San Juan-Chama Water Contract Amendments

### Introduction

This report summarizes Reclamation's scoping efforts associated with the NEPA process conducted to assess environmental effects of Reclamation's proposal to convert six existing water service contracts to repayment contracts. NEPA regulations define scoping as "an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action." The purpose of scoping is to focus the NEPA document on the significant issues and it includes all types of information-gathering activities. Reclamation sought information within Reclamation, from tribal governments, from other federal, state and local agencies, the San Juan-Chama Project contractors, environmental advocacy groups, and the public.

### Scoping Activities

A public scoping meeting was held January 7, 2002 at the Sweeney Convention Center in Santa Fe, New Mexico to describe the proposed contract amendments and receive feedback from attendees that would help focus the environmental analysis on important resource issues. Legal notices announcing the public meeting were published in the Albuquerque Journal, the Journal North, the Santa Fe New Mexican, the Taos paper and the Española paper. A press release was also distributed to these newspapers. Letters announcing the public scoping meeting were also sent to 83 tribal, agency, and environmental advocacy groups contacts. Approximately thirty-five individuals representing agencies, municipalities, Native American interests, elected officials, newspapers, or themselves attended the meeting. Verbal comments were received at the meeting and additional written scoping comments were accepted through January 25, 2002.

Reclamation is also carrying out scoping and consultation with Indian tribes to seek information on concerns specific to tribal resources. Written correspondence with Native American tribes was initiated for input regarding any possible effects of the proposed contract amendments to tribal resources and trust assets. Reclamation requested government-to-government consultation with tribal governments. Reclamation presented information and received feedback about the proposed contract amendments at the November 2001 and January 2002 meetings of the Six Middle Rio Grande Pueblos Coalition. Additional conversations or meetings took place with representatives of Ysleta del Sur Pueblo, Sandia Pueblo, Isleta Pueblo, and Santa Ana Pueblo. The Bureau of Indian Affairs, the New Mexico Interstate Stream Commission, and the City of Santa Fe provided written scoping information.

### Comments and Issues

Comments were received at the public scoping meeting, through interagency coordination, through responses provided on comment cards, letters submitted, at meetings held with tribal organizations, and through conversations or meetings with tribal representatives. Comments were organized by topic, reviewed and considered. Relevant comments and issues were incorporated into the NEPA process. Comments received are listed in the following.

### Contract Issues - General

- Can the U.S. (or Reclamation) unilaterally convert these contracts?
- How will the proposed action affect existing repayment contracts with other SJ-C contractors?
- Who initiated the contract conversion process?
- How did the two types of contracts evolve?
- The remaining uncontracted amount of 2,990 acre-feet has been identified for settlement in the Taos area. How did that amount get chosen?

### Contract Issues - Financial

- Would the City/County of Santa Fe pay more under the water service or repayment contract?
- Is there an inflation clause with respect to allocated costs?
- How often are O&M charges calculated?

### Upper Colorado River Basin Compact

- SJ-C water is New Mexico entitlement under the Colorado River Storage Project Act (CRSPA). It is state water, not Reclamation water. The water is being used in New Mexico.
- New Mexico water rights under Colorado River Compact is a percentage of flow. What if this decreases? How will it affect these contracts?
- How does adjudication process in Upper Colorado River Basin affect this proposed action?
- What about Upper Colorado River adjudication of water rights?

### Range of Alternatives

- The City/County of Santa Fe have the right to renew their existing water service contract.
- If the existing water service contracts are allowed to expire, would the U.S. (or Reclamation) have an opportunity to reduce the allocation (or quantity) of water?
- Can Reclamation assure upon renewal of water service contracts that the same water allocation (or quantity) will be available?

- Could a difference between contract types be the quantity of water available to a contractor?
- Could a contract action cause less water to be available for a purpose of use?
- Reclamation and contractors should look at ability to obtain additional native water.
- There's a contract requirement to put the allocation to full use.
- Is Reclamation looking at reallocation of this water (to entities who did not get one in the original allocation?)
- Another alternative exists and Forest Guardians will submit written comments. There may be a valid alternative that could require less water if we think "outside the box".

### Ecosystem issues

- Will Reclamation be looking at impacts to the Rio Grande ecosystem? Would more water be available under the water service or repayment type contract?
- Evaluate impacts to Rio Grande ecosystem

### Tribal resource issues and Indian Trust Assets

- There is awareness of SJ-C Project stipulated water for Indian water rights settlement. How many contractors actually divert and consume their water over the past 25 years? Reclamation has a fiduciary responsibility to protect Indian water. Native Americans feel threatened by Reclamation's current proposal. It would narrow the pot of available water. Reclamation is making it easy for the existing contractors even though the water is not being fully utilized. Why is there such a hurry to convert the contracts when the water has not been used?
- SJ-C water, even though it's imported, is still part of the Rio Grande system. Pueblos are also concerned about secure water for their future.
- Tribes feel it is a federal responsibility to establish criteria and develop them with Tribes at the same time we are securing these water supplies.
- Clarify NEPA and trust responsibility of Reclamation. Reclamation has the responsibility to identify and evaluate environmental impacts even if public does not comment. The responsibility to identify trust effects lies with Reclamation. Reclamation has a responsibility to consult with Tribes on a government-to-government basis.
- The six MRG Pueblos are being included but not all tribal interests are included. Pueblo of Isleta invites Reclamation to Tribal Counsel meeting for government-to-government

consultation. Reclamation should increase effort to include all Pueblos and all tribal interests.

- Reclamation should address trust responsibility in the environmental document.
- Does Reclamation have criteria to consider impacts to Indian trust assets?
- What does Indian trust assets include? Does this include adjudication of Indian water rights?

### Environmental Analysis

- Has Reclamation ever done a similar analysis for this type of proposal? If not, it may justify a full EIS.
- Reclamation's proposal is part of Santa Fe's overall water resources planning. Conducted separately, this NEPA process is segmentation. This action should be a part of a broader, overall EIS on Santa Fe area water management.
- Reclamation should address trust responsibility in the environmental document.
- Does Reclamation have criteria to consider impacts to Indian trust assets?
- What does Indian trust assets include? Does this include adjudication of Indian water rights?
- Will Reclamation assess by the suggested criteria (issues) if no viable input is received? Will Reclamation do an analysis without public input if none is received?
- Changes in understanding of hydrology (over the last 25 years) is part of the reason why water has not been physically diverted as opposed to being used to offset pumping effects. The earlier understanding of the connectivity of surface and ground waters allowed a one-for-one offset and a full diversion of SJ-C water was expected by pumping groundwater.
- Half of Santa Fe's allocation is used for offset of Buckman well pumping. If it is determined there is no hydrological connection, would there be any impact?

### Miscellaneous comments

- ISC supports conversion of the contracts to repayment type and will be submitting written comments. ISC would like to cooperate in the NEPA process.
- The City of Albuquerque is planning a multimillion dollar water diversion project. How can a contractor expect to finance such projects without a secure water supply?
- Is this action inspired by the possibilities of legal challenges? Is this proposed action an effort to shield the entities from having their water taken for endangered species?

**PUBLIC SCOPING MEETING**  
Environmental Assessment of  
Proposed San Juan-Chama Water  
Contract Amendments

January 7, 2002  
Bureau of Reclamation  
Albuquerque Area Office

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**Purpose of tonight's meeting**

- Inform the public and agencies of the proposed contract actions
- Invite public and agency participation
  - Solicit feedback and suggestions
- Obtain information about scope of environmental issues
  - With your help, identify important issues and eliminate others
- Comply with the National Environmental Policy Act of 1969 (NEPA)

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**Meeting Topics/Agenda**

- San Juan-Chama Project background
- Proposal to amend contracts
  - Water service vs. repayment contracts
- NEPA Process
- Environmental issues
  - Differences between alternatives
- Questions, comments, and discussion

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### What we propose to do:

Amend six existing San Juan-Chama water contracts to convert them from water service to repayment

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### What is the San Juan-Chama Project?

SJ-C project authorized by Congress in 1962; constructed during '60s and early '70s; first diversions and deliveries began in 1971.  
Primary purpose to furnish a water supply to the middle Rio Grande valley for agricultural, municipal, domestic, and industrial uses  
Also authorized for incidental recreation and fish and wildlife benefits.

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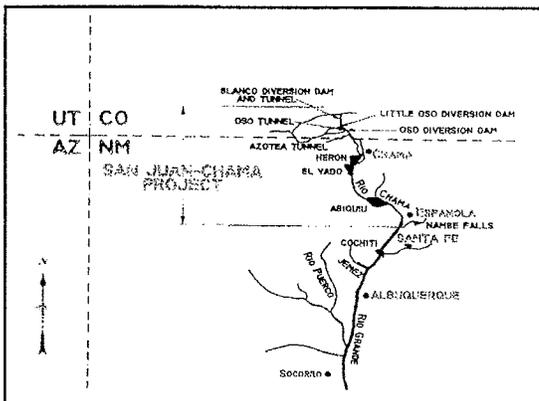
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## What is San Juan-Chama water?

Water diverted from San Juan Basin and delivered via 27 miles of tunnels through the Continental Divide to the Rio Grande Basin

Water is stored in Heron Reservoir

About 96,200 acre-feet can be provided annually

All of the water is currently committed by contract or specifically identified for future contracting with tribal interests.

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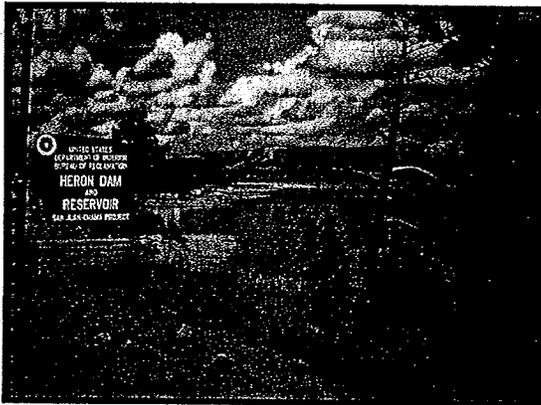
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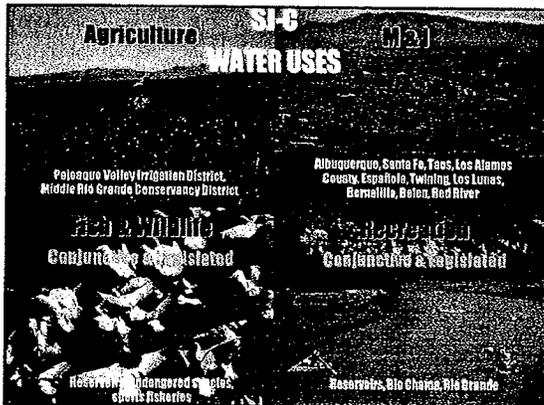
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What's the difference between a water service contract and a repayment contract?

Definitions

Practical differences

- Terms of payment
- Length of contract term

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### Definitions

Both forms of contracts were authorized in Section 9 of the Reclamation Project Act of 1939.

- The water service contract provides for water service to the contractor for a period not to exceed 40 years at rates sufficient to cover an appropriate share of the annual O&M cost and fixed charges.
- The repayment contract is geared toward recovering over a period not to exceed 40 years the part of the construction costs allocated to the contractor's water supply.

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### Terms of payment

Repayment

- Repayment scheduled so the total construction costs allocable to a contractor are repaid over a period of no more than 40 years

Water Service

- Annual payments are made at rates that will produce revenues at least sufficient to cover an appropriate share of the annual operation and maintenance costs and an appropriate share of fixed charges.

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**Length of contract term**

- Repayment
  - No expiration or renewal date
- Water Service
  - Renewable with a specific expiration date

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**Environmental Assessment (EA)**

Analyze potential impacts of alternatives considered

- Proposed contract conversions
- "No Action" or no contract conversions

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**NEPA Process**

- Scoping: obtain information about the scope and importance of environmental issues
- Assess impacts on the natural, human, and cultural environmental
- Distribute draft EA for review and comment
- Address comments
- Make decision

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What are important environmental issues to address?

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To assess impacts we need to know differences between alternatives

No conversion (contracts remain water service)	Contracts converted (to repayment)
Upon expiration, Reclamation expects to renew contracts	No expiration of contracts
May be viewed as less secure water supply	Viewed as a more secure water supply

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To assess impacts we need to know differences between alternatives

<u>No conversion</u>	<u>Contracts converted</u>
Trend toward direct use of SJ-C water by contractors	Trend toward direct use of SJ-C water by contractors
Trend of less SJ-C water available for Reclamation's supplemental water program	Trend of less SJ-C water available for Reclamation's supplemental water program

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To assess impacts we need to know differences between alternatives

No conversion

- SJ-C water used or stored or leased to 3<sup>rd</sup> parties
- Contractors may seek additional native water sources sooner or in greater quantities

Contracts converted

- SJ-C water used or stored or leased to 3<sup>rd</sup> parties
- Contractors may not have a need for or may delay seeking additional native water sources

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Preliminary list of resources to be assessed

Water

- Lakes and rivers

Biological

Socioeconomics

Cultural Resources

Environmental Justice

Indian Trust Assets

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Important issues to address in this environmental analysis

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### Next Steps

- Prepare draft Environmental Assessment
- Distribute for 30-day public review and comment
- Consider comments
- Make determination either to finalize EA and prepare a Finding of No Significant Impact (FONSI) or to prepare and Environmental Impact Statement

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### We request your participation

- Tonight
  - Make suggestions, ask questions, and give us feedback
  - Help identify and screen important issues

Or contact:

• Lori Robertson  
U.S. Bureau of Reclamation  
505 Marquette NW, Suite 1313  
Albuquerque, NM 87102  
(505) 248-5326  
lrobertson@uc.usbr.gov

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## Scoping Summary

### Environmental Assessment of San Juan-Chama Water Contract Amendments

#### Introduction

This report summarizes Reclamation's scoping efforts associated with the NEPA process conducted to assess environmental effects of Reclamation's proposal to convert seven existing water service contracts to repayment contracts. NEPA regulations define scoping as "an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action." The purpose of scoping is to focus the NEPA document on the significant issues and it includes all types of information-gathering activities. Reclamation sought information within Reclamation, from tribal governments, from other federal, state and local agencies, the San Juan-Chama Project contractors, environmental advocacy groups, and the public.

#### Scoping Activities

Two public scoping meetings, one on January 7, 2002 and one on November 7, 2005, were held at the Sweeney Convention Center, and the Genoveva Chavez Community Center respectively, in Santa Fe, New Mexico to describe the proposed contract amendments and receive feedback from attendees that would help focus the environmental analysis on important resource issues. Legal notices announcing the public meeting were published in the Albuquerque Journal, the Journal North (for the 2002 scoping meeting), the Albuquerque Tribune (for the 2005 scoping meeting), the Santa Fe New Mexican, the Taos News and the Rio Grande Sun in Española. A press release was also distributed to these newspapers prior to the 2002 scoping meeting. Letters announcing the public scoping meeting were also sent to 83 tribal, agency, and environmental advocacy groups contacts. Approximately thirty-five individuals representing agencies, municipalities, Native American interests, elected officials, newspapers, or themselves attended the January 2002 meeting and two individuals attended the November 2005 meeting. Verbal comments were received at the meeting and additional written scoping comments were accepted through January 25, 2002 for the 2002 meeting, and through December 7, 2005 for the 2005 meeting.

Reclamation is also carrying out scoping and consultation with Indian tribes to seek information on concerns specific to tribal resources. Written correspondence with Native American tribes was initiated for input regarding any possible effects of the proposed contract amendments to tribal resources and trust assets. Reclamation requested government-to-government consultation with tribal governments. Reclamation presented information and received feedback about the proposed contract amendments at the November 2001 and January 2002 meetings of the Six Middle Rio Grande Pueblos Coalition. Additional conversations or meetings took place with representatives of Ysleta del Sur Pueblo, Sandia Pueblo, Isleta Pueblo, and Santa Ana Pueblo. The Bureau of Indian Affairs, the New Mexico Interstate Stream Commission, Sandia Pueblo, City of Santa Fe, County of Los Alamos, Town of Taos, Village of Taos Ski Valley, Village of Los Lunas, and City of Española provided written scoping information.

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**Upper Colorado River Basin Compact**

- SJ-C water is New Mexico entitlement under the Colorado River Storage Project Act (CRSPA). It is state water, not Reclamation water. The water is being used in New Mexico.
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- How does adjudication process in Upper Colorado River Basin affect this proposed action?
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**Range of Alternatives**

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- Could a difference between contract types be the quantity of water available to a contractor?
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- Reclamation and contractors should look at ability to obtain additional native water.
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**Ecosystem issues**

- Will Reclamation be looking at impacts to the Rio Grande ecosystem? Would more water be available under the water service or repayment type contract?
- Evaluate impacts to Rio Grande ecosystem

**Tribal resource issues and Indian Trust Assets**

- There is awareness of SJ-C Project stipulated water for Indian water rights settlement. How many contractors actually divert and consume their water over the past 25 years? Reclamation has a fiduciary responsibility to protect Indian water. Native Americans feel threatened by Reclamation's current proposal. It would narrow the pot of available water. Reclamation is making it easy for the existing contractors even though the water is not being fully utilized. Why is there such a hurry to convert the contracts when the water has not been used?
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- Tribes feel it is a federal responsibility to establish criteria and develop them with Tribes at the same time we are securing these water supplies.
- Clarify NEPA and trust responsibility of Reclamation. Reclamation has the responsibility to identify and evaluate environmental impacts even if public does not comment. The responsibility to identify trust effects lies with Reclamation. Reclamation has a responsibility to consult with Tribes on a government-to-government basis.
- The six MRG Pueblos are being included but not all tribal interests are included. Pueblo of Isleta invites Reclamation to Tribal Counsel meeting for government-to-government consultation. Reclamation should increase effort to include all Pueblos and all tribal interests.
- Reclamation should address trust responsibility in the environmental document.
- Reclamation should take into account the *Aamodt* settlement as a context for the contract conversions.
- The Pueblos of Nambé, San Ildefonso, Tesuque, and Pojoaque support the Buckman Direct Diversion Project and conversion of the SJ-C Project Water Contracts as part of the Pueblo support for the *Aamodt* litigation revised settlement agreement.
- Does Reclamation have criteria to consider impacts to Indian trust assets?
- What does Indian trust assets include? Does this include adjudication of Indian water rights?

**Environmental Analysis**

- Has Reclamation ever done a similar analysis for this type of proposal? If not, it may justify a full EIS.

- Reclamation's proposal is part of Santa Fe's overall water resources planning. Conducted separately, this NEPA process is segmentation. This action should be a part of a broader, overall EIS on Santa Fe area water management.
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- Half of Santa Fe's allocation is used for offset of Buckman well pumping: If it is determined there is no hydrological connection, would there be any impact?
- Is Reclamation entertaining other alternatives for consideration?
- Will the EA be used to determine if an EIS is necessary?

**Miscellaneous comments**

- ISC supports conversion of the contracts to repayment type and will be submitting written comments. ISC would like to cooperate in the NEPA process.
- The City of Albuquerque is planning a multimillion dollar water diversion project. How can a contractor expect to finance such projects without a secure water supply?
- Is this action inspired by the possibilities of legal challenges? Is this proposed action an effort to shield the entities from having their water taken for endangered species?



## Public Scoping Meeting for the Environmental Assessment of Proposed San Juan-Chama Water Contract Amendments

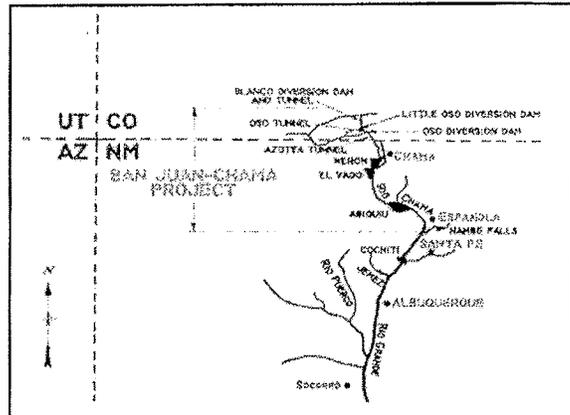
### Meeting topics/agenda

- San Juan-Chama Project background
- Proposal to amend contracts
  - Water service vs. repayment contracts
- NEPA Process
- Environmental issues
  - Differences between alternatives
- Questions, comments, and discussion



### What is the San Juan-Chama Project?

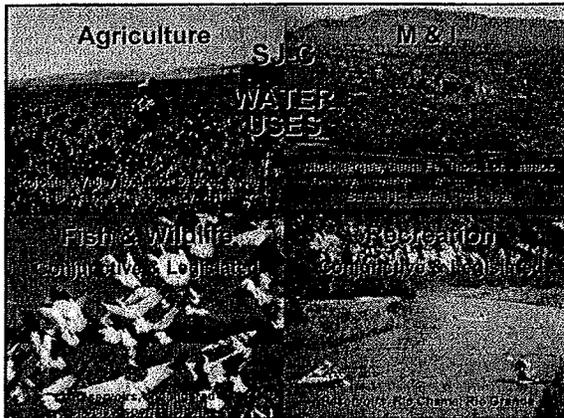
- SJ-C project authorized by Congress in 1962; constructed during '60s and early '70s; first diversions and deliveries began in 1971
- Primary purpose to furnish a water supply to the middle Rio Grande valley for agricultural, municipal, domestic, and industrial uses
- Also authorized for incidental recreation and fish and wildlife benefits



### What is San Juan-Chama water?

- Water diverted from San Juan Basin and delivered via 27 miles of tunnels through the Continental Divide to the Rio Grande Basin
- Water is stored in Heron Reservoir
- About 96,200 acre-feet can be provided annually
- All of the water is currently committed by contract or specifically identified for future contracting with tribal interests.





## San Juan-Chama Project Water Uses

• Municipal, domestic, and industrial purposes	66,280 ac-ft
• Irrigation	21,930 ac-ft
• Recreation	Up to 5,000 ac-ft
• Allocated, but uncontracted, water currently identified for future Indian water rights settlements and/or use	2,990 ac-ft
• TOTAL	96,200 ac-ft

## What we propose to do:

Amend six existing  
San Juan-Chama water contracts  
to convert them from  
water service to repayment

## Project Authorities

- Navajo Indian Irrigation Project and San Juan-Chama Project, Initial Stage Act of June 13, 1962 (76 Stat. 96) - Section 1 links to CRSPA
- Colorado River Storage Project Act of April 11, 1956 (70 Stat. 105) - Section 4 links to the 1939 Act
- Reclamation Project Act of August 4, 1939 (53 Stat. 1187) – Section 9 authorizes M&I use and Section 9(c) requires contracts for that M&I use

## Legal definitions

- Both forms of contracts were authorized in Section 9(c) of the Reclamation Project Act of 1939
  - The repayment contract under Section 9(c)(1) is geared toward recovering over a period, not to exceed 40 years, the part of the construction costs allocated to the contractor's water supply.
  - The water service contract under Section 9(c)(2) provides for water service to the contractor for a period not to exceed 40 years at rates sufficient to cover an appropriate share of the annual O&M cost and fixed charges

## What's the difference between a water service contract and a repayment contract?

- Definitions
- Practical differences
  - Terms of payment
  - Length of contract term



## Terms of payment

- **Repayment**
  - Repayment scheduled so the total construction costs allocable to a contractor are repaid over a period of no more than 40 years
- **Water Service**
  - Annual payments are made at rates that will produce revenues at least sufficient to cover an appropriate share of the annual operation and maintenance costs and an appropriate share of fixed charges.

## Length of contract term

- **Repayment**
  - No expiration or renewal date
- **Water Service**
  - Renewable with a specific expiration date



## The Seven Contractors

• City of Santa Fe	5230 ac-ft
• County of Santa Fe	375 ac-ft
• County of Los Alamos	1200 ac-ft
• Town of Taos	400 ac-ft
• Village of Taos Ski Valley	15 ac-ft
• Village of Los Lunas	400 ac-ft
• City of Espanola	1000 ac-ft

## Environmental Assessment (EA)

- **Analyze potential impacts of alternatives considered**
  - Proposed contract conversions
  - “No Action” or no contract conversions

## NEPA Process

- **Scoping:** obtain information about the scope and importance of environmental issues
- **Assess impacts** on the natural, human, and cultural environmental
- **Distribute draft EA** for review and comment
- **Address comments**
- **Make decision**

## To assess impacts we need to know differences between alternatives

- |   |  |
|---|--|
| <u>No conversion</u><br>(contracts remain water service)  | <u>Contracts converted</u><br>(to repayment) |
| • Upon expiration, Reclamation expects to renew contracts | • No expiration of contracts                 |
| • May be viewed as less secure water supply               | • Viewed as a more secure water supply       |

## To assess impacts we need to know differences between alternatives

### No conversion

- SJ-C water used or stored or leased to 3rd parties
- Contractors may seek additional native water sources sooner or in greater quantities

### Contracts converted

- SJ-C water used or stored or leased to 3rd parties
- Contractors may not have a need for or may delay seeking additional native water sources

## Some of the resources to be evaluated

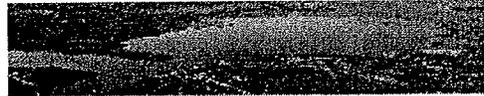
- Water
- Biological
- Endangered and Threatened Species
- Socioeconomics
- Environmental Justice
- Indian Trust Assets



## Other important issues to address in this environmental analysis?

## Environmental review schedule

- Public scoping for EA initiated – November 7, 2006
- Preparation of EA – November 2005 to February 2006
- Issuance of EA – February 2006
- Public review period and public hearing for EA – February 2006 to March 2006
- Issuance of FONSI or NOI – March 2006



## Clarifying questions

## We request your participation

- **Tonight**
  - Make suggestions, ask questions, and give us feedback
  - Help identify and screen important issues
- **Or contact:**
  - Charles Fischer
  - Bureau of Reclamation
  - 555 Broadway NE, Suite 100
  - Albuquerque, NM 87102
  - (505) 462-3656
  - [cfischer@uc.usbr.gov](mailto:cfischer@uc.usbr.gov)



**Additional questions?**

