

**APPENDIX C**  
**Ysleta del Sur Pueblo Letter and Comments**





## Ysleta del Sur Pueblo

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April 15, 2009

Mr. Robert Maxwell  
Bureau of Reclamation  
55 Broadway NE Ste 100 (ALB-184)  
Albuquerque, NM 87102

Dear Mr. Maxwell:

This letter serves to highlight and discuss the Ysleta del Sur Pueblo's stance on the Environmental Assessment Conducted by the Bureau of Reclamation titled Finding of No Significant Impact and Draft Environmental Assessment for El Paso County Riverside Canal and Structure Improvement Project. The YDSP has exercised its right to comment on past iterations of this Assessment. Concerns submitted in behalf of the Pueblo have been recorded in the appendix portion of the Assessment. As submitted to the Pueblo's office, April 12, 2009, the newest version of this document is still very much in draft form, missing key elaborations and talking points that the Pueblo has identified in previous comments. It is unclear how these key points of discussion have not been elaborated in the Assessment when they appear in the appendix. Hopefully the final draft will reconcile comments submitted and their representation in the final draft.

The YDSP has been asked to comment on a document whose previous drafts have been commented on. This task presents a challenge as the most recent version of the Assessment has been through minimal substantive changes. Many of the concerns previously submitted by way of comment still remain unaddressed. Many of the concerns expressed in previous comments related to questions of habitat sustainability have not been well developed. The purposes of the project are presented and discussions of water loss due to seepage and evaporation are well developed talking points. The same care and elaboration does not exist in the sections presenting water resources and habitat sustainability as it relates to Rio Bosque vegetation. The Assessment suffers from blanket statements that in many cases go un-cited and can be determined by the reader as biased inferences.

Attached to this letter is a brief inventory of exceptions identified by Environmental Management staff. The core principle that has guided the review of this Assessment has been to demonstrate best practices and environmental stewardship for a wetland that while not a Tribal Asset, still holds important cultural significance. To further this existing concern for the Rio Bosque, the newly erected border fence will work to frustrate and strain the ecology of the wetland. This new factor has also been neglected in the newest version of the Assessment.

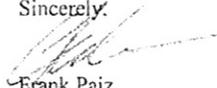
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In conclusion, the Assessment's appendix has many entities with shared concerns, but the Assessment is incomplete in dispelling concerns over the future of the Rio Bosque. It is unclear why the Assessment has been revised without meaningful discussion with this concern in mind. This deficiency within the Assessment has made it difficult to change previous unfavorable comments when the content and tone within the Assessment remains largely unchanged.

We hope that these comments will help develop a document that closely models the concerns of the Pueblo and of the community at large. In continuing the process of government to government consultation we are sure that the Assessment will improve and become a benefit to all parties involved. Should you require additional information please do not hesitate to contact the Director of Environmental Management, Evaristo Cruz at 915-859-7913.

Thank you for your time and consideration on this critical matter.

Sincerely,



Frank Paiz  
Tribal Governor

Enclosures:

1. Comments on the El Paso Riverside Canal and Structure Improvement Project

Comments on the El Paso County Riverside Canal and Structure Improvement Project

pg 1 – Wildlife

See revision of the Wildlife section page 2 of the FONSI and Pages 12 and 17 of the EA.

The Pecos River Muskrat, as stated, are indicated to be “living along the canal” and it is stated that the “Project would only temporarily impact” the species. I believe that with the construction the displacement will be an indefinite impact. These animals, after construction, could return to an area that has been changed significantly. The assessment should be reviewed in light of the erected border fence. The construction of this fence will have impacts that have not been reviewed and may have a synergistic adverse effect on wildlife in the area.

The border fence has been completed and would not be in the proposed Project area of analysis; therefore, it is a separate issue not to be included in this EA.

pg 2 – Culture Resources

Wording does not include cultural resource as it relates to the Pueblo. This section should include some description of the utility the Rio Bosque and cultural link to the Pueblo. There is no consideration taken into account on behalf of the Tribes cultural resources that will be affected. I believe that this concern has been brought up in past letters from the Tribe.

See Page 2 of the FONSI and Page 18 of the EA for a revision of this section.

Wetlands

The statement made that the Rio Bosque Wetlands “would not be affected” by the project is incorrect. The second sentence implies that there is a potential for a wetland, therefore if the canal is lined the potential for the protection or having an effect on the wetland is misleading. This is where some sort of statement regarding how this wetland came to be could be addressed. Somewhere it has to be said that this wetland was a mitigation practice on behalf of the Bureau of Reclamation in a previous irrigation project. More elaboration is needed as to why the BOR has determined the Rio Bosque’s status as not being a mitigated wetland and why federal protection is no being applied.

See Page 4 of the FONSI and Pages 15 and 20 of the EA for revisions. Also see Water Resources Page 19 of the EA for additional discussion regarding the Park.

Water Resources

How could lining the canal not affect the shallow alluvium aquifer? The Historical data given in the assessment is not interpreted into a clear summation stating that water resources should not be a concern. The cited source (Axiom-Blair 2007) survey and inventory of information was not used to make a final summary statement as to the relationship groundwater resources have with the Rio Bosque. The professional opinion as to the relationship between the Rio Bosque is inferred meaning that perhaps the (Axiom-Blair 2007) document was developed with another purpose in mind. Do these test wells then say that the Rio Bosque is not dependent on groundwater, what is the conclusion on the data surveyed in this section? Please cite (Axiom-Blair 2007) and include it in the references section.

See Page 2 of the FONSI, and Pages 15 and 19 of the EA.

Vegetation

The vegetation within the canal is controlled with scheduled vegetation control. The sides of the canal are bladed on a regular schedule so the issue is closer related to vegetation within the Rio Bosque. The fact that “very little vegetation exists” is a primary reason why we need to protect what little is left. To say that the little that exists “would reseed after the Project” is conjecture.

Environmental Justice

See Page 4 of the FONSI, and Pages 16 and 21 of the EA for some



To state that by "implementing the proposed action will not create any unsuitable affects to low-income or minorities" is misleading. The Tribe is considered a minority and the proposed action will affect the existence of the Tribe's cultural practices.

1.6.1

See Page 4 of the FONSI and Pages 16 and 21 of the EA.

The Pecos River Muskrat is stated that it was "sighted 3 to 4 miles southeast in irrigation ditches." This is not concurrent with what is said by the Texas Parks and Wildlife statement, and contradicts what is said under the headline wildlife on page 1.

2.3.2

See Page 2 of the FONSI and Pages 12 and 17 of the EA.

In the table under the no action alternative under the third column, to say that it is not cost effective is misleading. The use of *cost effective* must be qualified as it relates to impact to a mitigated wetland.

3.2.1

See Page 6 for a cost analysis of the table in the EA under 2.3.3.

Again the issue with the Muskrat being "sighted 3 to 4 miles southeast of the irrigation ditches" is incorrect. My office went out with the Texas Parks and Wildlife and sighted the existence of the Muskrat in the project area. See comment under wildlife.

3.2.3

See Page 2 of the FONSI and Pages 12 and 17 of the EA.

The park is currently receiving water during the winter months but it is known that water for plants to thrive is needed more during the growing season which is in the summer months. During this time no water is being funneled through the wetlands. This is detrimental to the existence of the wetland. Discussion needed on water resources available during growing season, as there will most likely always be surplus water during winter months.

Axiom-Blair 2007 is a study that is cited often in this document but does this study relate directly to plant life sustainability or is it inferred that transmissivity is directly related to plant life sustainability? Is it valid to make plant life sustainability assumptions based on a cited study that does not appear in the works cited section of this document?

3.2.4

See Water Resources on Page 2 of the FONSI, and Water Resources and Wetlands on Pages 15, 19, and 20 of the EA.

The first sentence states that the "shallow aquifer that may be affected is called the Rio Grande Alluvium" and goes on to say that it is "hydraulically connected" to the Hueco Bolson Aquifer which is an important aquifer as it "is the principal aquifer for the Lower El Paso Valley and Juarez areas." Therefore, lining of the canal will have an impact on the shallow Rio Grande Alluvium which can also have an impact on the Hueco Bolson. Furthermore, the test pump test done on CW- 6, CW- 7, and RB- 11 has to be misleading. According to figure 8, the Rio Bosque Wetlands Park Monitoring Wells Sites map, there is a closer Rio Bosque well, numbered RB-12 that is not in the chart. By just looking at the map this well seems to be the closest to CW-6 and CW-7 which can only imply similar results. The last sentence in this section illustrates the connection between the canals, shallow Rio Grande Alluvium, and the larger,

See Water Resources on Page 2 of the FONSI and Page 19 of the EA.

more important Hueco Bolson. "Sources of water in the shallow alluvium come from nearby irrigation, canal systems, and as a result of the hydrologic connection to the deeper Aquifer known as the Hueco Bolson." The dates of the tests are with in 15 days of each other, which gives the impression that it takes just about that time to recharge.

4.2.1 Wildlife

Under *Proposed Action B* – it is stated that "a survey was conducted by Texas Parks and Wildlife and indicated that Muskrat occur in the project area." It is misleading and incorrect to say that "it may not be the Pecos River Muskrat" and "the project would temporarily displace the species, when in fact if the preferred alternative is chosen the canal will be lined with concrete therefore not allowing the species to return to its burrows under water and in the banks of the canal. By the same token, it is also misleading that other species will not be affected by the lining of the canal. Secondly, it is stated in the *Secondary and Cumulative Effects* that "the Pecos River Muskrat habitat along the banks of the canal will be permanently destroyed," and that "since only a small portion (3 miles to be exact) of the canal will be lined with concrete, the proposed action will not permanently affect the Muskrat in the area. It is assumed that the "Muskrat would simply move to another location on the banks of the canal that would not be disturbed by the project." The American Canal extension project that has already been lined 15 miles upstream is not suitable and the 3 miles of the proposed project, put the species disproportionately far from their habitat.

See Page 12 for a discussion on Muskrat habitat. See Page 17 for additional discussion on the effects of the Project on the Muskrat.

4.2.3 Wetlands

Under *Proposed Action B* – reference is made to the pump tests that were performed stating that "the aquifers would maintain the groundwater level much the same as before lining of the canal." We believe the test to be inconclusive due to the time they were performed and the area performed. Wells tested were done so during the irrigation season and on pumps near the canal. During this time the canals are carrying water adding to the recharge time showing that there is a relative fast recharge of the aquifer. It is evident that there is a connection between the two, and the canals, the shallow alluvium aquifer and the much larger Hueco Bolson.

See Water Resources section on Page 2 and Page 19 of the EA.

4.2.5 Vegetation

Under *Proposed Action B* – the statement is made that "lining the canal with concrete would eliminate any remaining vegetation including those listed in the table on page 15," and it is contradictory to say in the next sentence that "after construction, plants would reseed themselves and reappear on areas affected by construction."

See Page 4 of the FONSI and Pages 16 and 21 of the EA.

After reading through this document, I noticed that I could not find any statements on behalf of the Corps of Engineers. I feel that they can speak to the question of the status of the wetland. Are they given the chance to comment on this EA?

Additional Thoughts on EA

- The Bureau of Reclamation (BOR), authors of the EA have stayed away from commenting on why the Rio Bosque should not be considered a mitigated wetland, deserving federal protection. The responsibility should fall on them to justify why this would be so.

See Page 4 of the FONSI and Pages 15 and 20 of the EA for revisions. Also see Water Resources Page 19 of the EA for additional discussion regarding the Park.

See Coordination Page 6 of the FONSI and Page 23 of the EA. The Corps of Engineers has determined that a Department of the Army Permit is not required for the Project.



See Page 4 of the FONSI and Pages 15 and 20 of the EA for revisions. Also see Water Resources Page 19 of the EA for additional discussion regarding the Park.

See Page 4 of the FONSI and Page 20 of the EA.

The border fence has been completed and would not be in the proposed Project area of analysis; therefore, it is a separate issue not to be included in this EA.

- Assurances that the Rio Bosque is not at risk from the lining project are based on an aquifer study/test that did not specifically look at plant habitat sustainability. So inferences are made from these tests that may not have been the original intent of the study. Also this study/test is not included in the references (peer review?)  
The EA is project heavy, including discussions from the project point of view and does not discuss needs for the habitat. The EA needs to elaborate on water needs to sustain a wetland. This discussion should reference water demands of the park and possible delivery of water to ensure wetland status
- References are made to water availability during the winter season but no mention is made as to the water resources during the growing season.
- An inventory of the work done to promote sustainability has not been included which is a disservice to EP#1 and its effort. These upgrades should be documented and included in the EA
- The EA should include new data now that the border fence has been erected. This new construction may add environmental stressors to the Rio Bosque and its natural resources.

See Appendix B for Al Blair's Study Report

See Page 2 of the FONSI and Page 19 of the EA.

