

**Attachment 4**  
**Agency Correspondence**

# NEW MEXICO INTERSTATE STREAM COMMISSION

## COMMISSION MEMBERS

RICHARD P. CHENEY, Chairman, Farmington  
 HOYT PATTISON, Vice-Chairman, Clovis  
 THOMAS C. TURNEY, PE., Secretary, Santa Fe  
 PALEMON A. MARTINEZ, Valdez  
 JOHN S. BULSTERBAUM, Deming  
 PHILIP R. GRANT, Albuquerque  
 HAROLD HOUGHTALING, Jr., Lake Arthur  
 NARENDRA N. GUNAJI, Las Cruces  
 PHIL H. BIDEGAIN, Tucumcari



BATAAN MEMORIAL BUILDING, ROOM 101  
 STATE CAPITOL  
 POST OFFICE BOX 25102  
 SANTA FE, NEW MEXICO 87504-5102

January 17, 2002

Marc D. Rucker, Division Manager  
 Environment and Lands  
 U.S. Bureau of Reclamation  
 Albuquerque Area Office  
 505 Marquette NW, Suite 1313  
 Albuquerque, New Mexico 87102

**RE: Public Scoping for the Environmental Assessment of Proposed San Juan-Chama Project Water Contract Amendments**

Dear Mr. Rucker:

Thank you for notice of the January 7, 2002 public scoping meeting to discuss proposed contract amendments between the U.S. Bureau of Reclamation and six New Mexico municipal water purveyors (the City/County of Santa Fe, the County of Los Alamos, the Town of Taos, Village of Taos Ski Valley, the Village of Los Lunas and the City of Espanola) holding existing water service contracts for delivery of San Juan-Chama Project water. The New Mexico Interstate Stream Commission (ISC) strongly supports amending and converting the current water service contracts between Reclamation and these entities into repayment contracts that do not expire.

The San Juan-Chama Project was authorized by Congress in 1962 as a participating project of the Colorado River Storage Project for the primary purposes of providing water supply for irrigation, municipal, domestic and industrial uses. The authorizing legislation recognizes recreation and fish and wildlife benefits as incidental to the Project. The firm yield of the Project (96,200 acre-feet per year) is a portion (just under 7 percent) of the State of New Mexico's water entitlement under the Upper Colorado River Compact. As such, the waters supplied by the San Juan-Chama Project are public waters of the state of New Mexico, the use of which is subject to all applicable state laws.

Perpetual use by the six municipal water purveyors listed above to the San Juan-Chama Project water supply now contracted to them is of extreme importance to these communities and their water system customers. They need a reliable and sustainable source of supply and contracted for San Juan-Chama Project to provide that supply. These contractors need to develop and utilize their San Juan-Chama Project annual water allotments to replace their current reliance on inadequate or junior water rights or on mined groundwater resources.

(505)827-6160  
 ALBUQUERQUE AREA OFFICE

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JAN 22 2002

Classification \_\_\_\_\_  
 Project \_\_\_\_\_  
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ACTION

They need the assurances of perpetual contractual access to the water supplies on which they do and will continue to rely.

The ISC requests the opportunity to discuss with the Bureau of Reclamation and the six San Juan-Chama Project contractors a potential amended contract requirement of full development and use of these water supplies for municipal water supply purposes by the municipal water supply contractors. San Juan-Chama Project water should not be held by municipalities in excess of their water requirements, as provided by New Mexico law.

The ISC, which is charged by New Mexico law with investigation, protection, conservation, and development of New Mexico's water resources for beneficial uses, wishes to cooperate with the Bureau of Reclamation to the maximum extent possible to provide perpetual access by these contractors to their currently contracted water supplies. The ISC requests participation as a cooperating agency during the preparation of the Environmental Assessment of the proposed amendments pursuant to the Memorandum of July 28, 1999 issued by the President's Council on Environmental Quality and 40 CFR 1501.6. The ISC has management and special expertise with respect to development of reasonable alternatives and evaluating the significant environmental, social or economic impacts associated with the proposed actions.

Obviously, the amended contracts must fully comply with the authorizing legislation for the San Juan-Chama Project and other applicable Reclamation law. The amended contracts must also fully comply with all applicable New Mexico water law and should include provisions that require that any third-party leases fully comply with state law, including without limitation obtaining required permits from the Office of the State Engineer.

Sincerely,



Norman Gaume, P.E.  
Director

ANG:rav

c: Richard L. Lucero, Mayor, City of Espanola  
Larry A. Delgado, Mayor, City of Santa Fe  
Chris Stagg, Mayor, Village of Taos Ski Valley  
Mary McInerney, Administrator, County of Los Alamos  
Estevan Lopez, Manager, County of Santa Fe  
Frederick A. Peralta, Mayor, Town of Taos  
Louis F. Huning, Mayor, Village of Los Lunas  
Interstate Stream Commission members  
Rolf Schmidt-Petersen  
Kevin Flanigan

# NEW MEXICO INTERSTATE STREAM COMMISSION

## COMMISSION MEMBERS

JIM DUNLAP, Chairman, Farmington  
 J. PHELPS WHITE, III, Vice-Chairman, Roswell  
 JOHN R. D'ANTONIO, JR., P.E., Secretary, Santa Fe  
 BUFORD HARRIS, Mesilla  
 BLANE SANCHEZ, Isleta  
 JULIA DAVIS STAFFORD, Cimarron  
 PATRICIO GARCIA, Rio Chama  
 JUDITH M. ESPINOSA, Albuquerque  
 JAMES WILCOX, Carlsbad



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 FAX: (505)827-6160

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September 11, 2003

Mr. Ken Maxey  
 Area Manager  
 U.S. Bureau of Reclamation  
 Albuquerque Area Office  
 505 Marquette NW, Suite 1313  
 Albuquerque, NM 87102

**RE: Public Scoping for the Environmental Assessment of Proposed San Juan-Chama Project Water Contract Amendments**

Dear Mr. Maxey:

This letter is based upon your verbal request to me and the request of representatives of the City/County of Santa Fe and City of Espanola for the New Mexico Interstate Stream Commission to provide direction to the Bureau of Reclamation regarding the Environmental Assessment of proposed amendments to the San Juan-Chama Contract of the City/County of Santa Fe and the City of Espanola. The New Mexico Interstate Stream Commission (ISC) strongly supports amending and converting the current water service contracts between Reclamation and these entities into repayment contracts that do not expire.

The San Juan-Chama Project was authorized by Congress in 1962 as a participating project of the Colorado River Storage Project for the primary purposes of providing water supply for irrigation, municipal, domestic and industrial uses. The authorizing legislation recognizes recreation and fish and wildlife benefits as incidental to the Project. The firm yield of the Project (96,200 acre-feet per year) is a portion (just under 7 percent) of the State of New Mexico's water entitlement under the Upper Colorado River Compact. As such, the waters supplied by the San Juan-Chama Project are public waters of the state of New Mexico, the use of which is subject to all applicable state laws.

The regular use by the City/County of Santa Fe and the City of Espanola of the San Juan-Chama Project water supply now contracted to them is of extreme importance to these communities and their water system customers. They need a reliable and sustainable source of water and contracted to San Juan-Chama Project to provide that. These communities have shown a significant need for the water as reflected in the Jemez River Basin Water Plan that was accepted by the Interstate Stream Commission in 1993. These entities need to fully develop and utilize their San Juan-Chama Project water

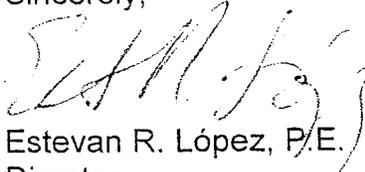
allotments to replace their current reliance on inadequate or junior water rights or on mined groundwater resources or because of water quality concerns. They need the assurances of perpetual contractual access to the water supplies on which they do and will continue to rely.

At this time, the NMISC has not discussed the water requirements of the other four San Juan-Chama Project contractors involved in the January 2002 Environmental Assessment (EA). Our position remains that San Juan-Chama Project water should not be held by municipalities in excess of their water requirements, as provided by New Mexico law.

In addition, I would like to reaffirm the position of the ISC, which is charged by New Mexico law with investigation, protection, conservation, and development of New Mexico's water resources for beneficial uses, to cooperate with the Bureau of Reclamation to the maximum extent possible to provide perpetual access by these contractors to their currently contracted water supplies. In that vein, our staff's should coordinate to finalize the draft cooperating agency agreement that was developed during 2002. Please have your project manager for the EA contact Mr. Kevin Flanigan of my staff in this regard.

Obviously, the amended contracts must fully comply with the authorizing legislation for the San Juan-Chama Project and other applicable Reclamation law. The amended contracts must also fully comply with all applicable New Mexico water law and should include provisions that require that any third-party leases fully comply with state law, including without limitation obtaining required permits from the Office of the State Engineer.

Sincerely,



Estevan R. López, P.E.  
Director

EL:rsp

c: Mr. Richard Lucero, Mayor, City of Espanola  
Mr. Leonard Padilla, Treasurer, City of Espanola  
Mr. Larry A. Delgado, Mayor, City of Santa Fe,  
Mr. Gallen Buller, Director, Sangre de Cristo Water Division  
Mr. Gerald T.E. Gonzalez, County Manager, County of Santa Fe  
Mr. Gary Roybal, Utilities Director, County of Santa Fe

# NEW MEXICO INTERSTATE STREAM COMMISSION

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September 23, 2003

Mr. Ken Maxey  
 Area Manager  
 U.S. Bureau of Reclamation  
 Albuquerque Area Office  
 555 Broadway NE, Suite 100  
 Albuquerque, NM 87102-2352

**RE: NMISC Response to Your May 8, 2003 Letter Concerning Conversion of San Juan-Chama Project Water Service Contracts**

Dear Mr. Maxey:

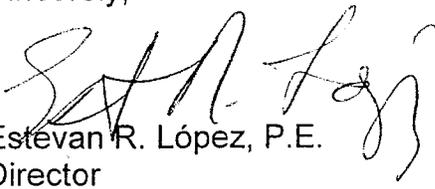
This letter provides the New Mexico Interstate Stream Commission (ISC) response to your May 8, 2003 letter to Mr. John D'Antonio in his capacity as Secretary of the ISC. As you are aware, on January 17, 2002, Norman Gaume, the former Director of the ISC, sent a letter to Mr. Marc Rucker, formerly the U.S. Bureau of Reclamation (USBR) Albuquerque Area Division Manager of Environment and Lands that described in detail the Commission's position regarding proposed contract amendments between the USBR and six New Mexico municipal water purveyors (the City/County of Santa Fe, the County of Los Alamos, the Town of Taos, Village of Taos Ski Valley, the Village of Los Lunas and the City of Espanola). All six contractors hold existing water service contracts for delivery of San Juan-Chama Project (SJCP) water and are seeking to convert those contracts to repayment contracts. The January 17, 2002 letter is attached and the NMISC position has not changed since that time.

The ISC continues to strongly support amending and converting the current water service contracts between Reclamation and these entities into repayment contracts that do not expire.

In addition, as I stated in my September 11, 2003 letter to you regarding conversion of the City/County of Santa Fe and City of Espanola water service contracts, I would like to reaffirm the position of the ISC to cooperate with the Bureau of Reclamation to the maximum extent possible to provide perpetual access by all six contractors to their currently contracted water supplies. In that vein, our staff's should coordinate to finalize the draft cooperating agency agreement that was developed during 2002. Please have your project manager for the EA contact Mr. Kevin Flanigan of my staff in this regard and do not hesitate to call me at 505-827-6103 if you have any questions concerning this letter.

Mr. Ken Maxey  
September 23, 2003  
Page 2

Sincerely,



Estevan R. López, P.E.  
Director

ERL:jb

c: Mr. Richard L. Lucero, Mayor, City of Espanola  
Mr. Larry A. Delgado, Mayor, City of Santa Fe,  
Mr. Gerald T.E. Gonzalez, County Manager, County of Santa Fe  
Donna Dreska, Administrator, County of Los Alamos  
Village Manager, Village of Taos Ski Valley  
Phillip Jaramillo, Village Administrator, Village of Los Lunas  
Bobby F. Duran, Mayor, Town of Taos  
Rolf Schmidt-Petersen  
Kevin Flanigan

ORIGINAL



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

SOUTHWEST REGION

P.O. BOX 26567

Albuquerque, New Mexico 87125-6567

ALBUQUERQUE AREA OFFICE

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FEB 20 2002

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IN REPLY REFER TO:

340-Branch of Regional Water  
Rights and Protection

FEB 14 2002

Memorandum

To: Area Manager, Bureau of Reclamation

From: Regional Director

Subject: Consultation Regarding Proposed San Juan-Chama (SJ-C) Contract  
Amendments

Thank you for the opportunity to comment on the National Environmental Policy Act (NEPA) documentation for the proposed amendments converting six SJ-C water contracts from water service contracts to repayment contracts.

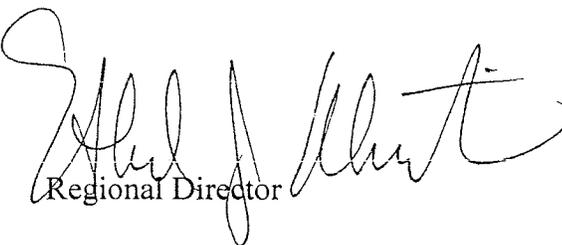
It is clear that the scope of the environmental assessment is limited to the potential effects to existing Indian trust assets. Given the unsettled atmosphere of unquantified federal reserved and aboriginal water rights, the Bureau of Indian Affairs believes a broader perspective to be appropriate. At a minimum, the NEPA process should consider that the proposed amendment to the existing contracts might have the practical effect of prohibiting the Pueblos from any possibility of contracting for any portion(s) of that water when the contracts do expire in 2016-2021. The BIA believes that the conversion to contracts without expiration effectively diminishes the possibility of settlement of Pueblo water rights, thereby negatively affecting Indian trust assets.

Regarding environmental justice, federal agencies are required to identify and address disproportionately high and adverse human health or environmental effects of its activities on minority and low-income populations. Not allowing the Pueblos access to the revenue stream that flows from leasing SJ-C water (or the actual flows themselves), and the economic and environmental benefits that might occur, could be linked to degradations in human health or environmental conditions within the Pueblo communities.

The existing SJ-C contracts allow for the contractors to leaseback to the Bureau of Reclamation (BOR) supplemental water program. We do not believe that that constitutes full use of the contractor's allotment, despite the benefit that the BOR receives for its supplemental water program. We suggest that those contracts that do not already have explicitly detailed direct use plans be reduced and that the BOR then reallocates that

water to Pueblos involved in advanced settlement discussions. We offer that the Pueblo communities consider themselves stewards of the river reach within their exterior boundaries, and might be interested in partnering with the BOR supplemental water program.

The BOR, along with the BIA and all federal agencies, have a federal trust responsibility to the affected pueblo communities. BOR must assure that allowing non-Pueblo communities to benefit from leases and a secured water supply is consistent with that federal trust responsibility. Should you need any assistance from my office in this matter, please contact Arch Wells, Trust Resources Protection Manager, at (505) 346-7587.

Acting Regional Director 



# City of Santa Fe, New Mexico

Larry A. Delgado, Mayor  
Jim Romero, City Manager

**Councilors:**

Carol Robertson-Lopez, Mayor Pro Tem, Dist. 4  
Patti J. Bushee, Dist. 1  
Jimmie Martinez, Dist. 1  
Karen Heldmeyer, Dist. 2

Cristopher Moore, Dist. 2  
Miguel M. Chavez, Dist. 3  
Frank Montano, Dist. 3  
Matthew F. Ortiz, Dist. 4

January 25, 2002

Lori Robertson  
Bureau of Reclamation  
505 Marquette NW, Suite 1313  
Albuquerque, NM 87102

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DATE	INITIALS	COUNT
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RE: City of Santa Fe Scoping Comments on the Environmental Analysis of Proposed San Juan-Chama Contract Amendments

Dear Ms. Robertson:

Thank you for conducting the public scoping meeting January 7, 2002 and providing the opportunity to comment on the proposed San Juan-Chama Contract Amendments. This letter constitutes the City of Santa Fe's (City) comments on the scoping for the environmental analysis to be prepared pursuant to the National Environmental Policy Act (NEPA).

The City of Santa Fe (City) is in favor of the conversion of the water service contracts to repayment contracts because the it will be a significant financial benefit to the City of Santa Fe. With the conversion of the contract, the City's annual payment will increase by \$12,195 until 2016, but will be reduced by \$145,925 per year after 2016, thereby significantly reducing our costs over the long term. Because the repayment contract does not have an expiration date, it is viewed as more secure for purposes of obtaining funding by the City and County for design and construction of needed water supply projects. A repayment contract demonstrates the City's resolve to utilize its entire San Juan-Chama allocation as a permanent source of supply.

The City strongly disagrees with statements made at the public meeting that the BOR should not transfer the City's service agreement to a repayment contract because the City has not utilized its allocation of water. The City would like to emphasize that it is currently utilizing its San Juan-Chama allocation and has been since 1976, the year that the City contracted for its water. An Environmental Assessment (EA) was prepared in 1976 that assessed the environmental impacts of diverting the San Juan-

Chama water through the Buckman well field. The City uses its San Juan-Chama to offset the impacts of pumping the well field.

The City has also utilized the San Juan-Chama water to offset diversions of water on the Santa Fe River. Since 1978, the City has used an average of 419 acre-feet each year of San Juan-Chama water to meet calls by Texas on the water stored in the Santa Fe Canyon reservoirs.

Finally, the City would like to emphasize that the San Juan-Chama water is New Mexico's share of the Colorado River Basin water, and it is subject to priority calls and shortages that may occur in that river basin. It should not be penalized by water shortages in the Rio Grande.

The proposed contract amendment is independent of the City's ongoing efforts to develop a strategy for long-term water supplies and usage, and will not foreclose any alternatives that might be considered in connection with that effort.

Thank you again for the opportunity to comment. Should you have questions, I can be contacted at (505) 954-7162.

Sincerely,

A handwritten signature in black ink, appearing to read "Marlene Sundheimer". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Marlene Sundheimer, Director  
City of Santa Fe Water Division

cc: Norm Guame, Interstate Stream Commission  
Rolf Schmidt Peterson, Rio Grande Bureau Chief, ISC  
Tom Turney, State Engineer



United States Department of the Interior  
BUREAU OF INDIAN AFFAIRS  
SOUTHWEST REGION  
P.O. BOX 26567  
Albuquerque, New Mexico 87125-6567

IN REPLY REFER TO:

620-Division of Environmental, Safety,  
and Cultural Resource Management

APR 06 2006

To: Regional Director, Bureau of Reclamation  
Attention: Charles Fischer, Environmental Protection Specialist

From: Regional Director, Bureau of Indian Affairs

Subject: San Juan-Chama (SJ-C) Water Contract Amendments Draft  
Environmental Assessment (EA) Review

Our office has received the aforementioned EA for review. We recommend the following comments be considered and appropriate revisions made before the EA should be finalized.

1. 1.3 Background, Page 5, Table 1, *Allocated, but uncontracted, water currently identified for future Indian water rights settlements and or use*: Taos area is allocated 2, 990 ac-ft of SJ-C water, what tribes or pueblos are eligible for its use? When will this be determined?
2. 1.3 Background, Page 6, ¶ 1. Describes water service and repayment contracts. What initially prompted the seven (7) contractors to choose a water service contract for SJ-C water allocations? The forty (40) year water plans of the contractors should be offered to all reviewers to ensure a rigorous examination.
3. 1.3 Background, Page 6, Los Alamos County. Will the contaminated water found in the aquifer be treated for future use with the expected increase in population and developments? Will any unused SJ-C water be subcontracted to Los Alamos Laboratory?
4. 1.3 Background, Page 6, Village of Los Lunas. What is the current demand for water in the Village of Los Lunas and how much SJ-C water is allocated to meet their demands?
5. 1.3 Background, Page 6, City of Santa Fe. This title should include the County; county information is included in this ¶. What are the uses for the 375 ac-ft SJ-C water provided to the county? Does the 5, 230 ac-ft allocated to the City of Santa Fe include the 3, 000 ac-ft SJ-C water subcontracted by the Jicarilla Apache Nation for the next 50 years? If not, please provide updated ac-ft.
6. 2.3 Alternatives Considered but Eliminated from Detailed Analysis, Page 10, ¶. This alternative of reducing contractors' original allocations seems feasible to attaining supplemental water for endangered species and partially reach the unmet needs of tribal water resources. If it is foreseeable that the seven (7) entities will have annual unused SJ-C water, it should be made available to use for other purposes.

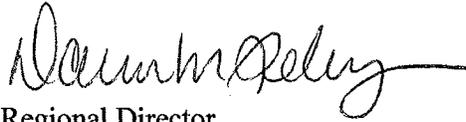
7. Table 3, Summary Comparison of Impacts of Alternatives-Indian Trust Assets. It is stated that concern for future Indian needs is not a valid issue, only impacts on Indian Assets. It is the case that impacts to existing Indian water uses from the proposed action are minimal. However, the proposed action is being taken to accommodate the future needs of non-Indian communities. Therefore it suggests that the future uses and needs of Indian communities is germane to the discussion. In addition, the Indian Trust Assets of Indian water rights are permanently established through adjudication. Although the exercise of Indian water rights takes place, very few such rights have been established along the Rio Grande through adjudication. Many are in the adjudication process. Therefore it cannot be stated with finality that Indian Trust Assets are not impacted, or that exercise of Indian water rights will not impact the use of contracted water, as the Indian water rights have not yet been established through adjudication.
8. 3.1 Scope and Baseline of Analysis, ¶ 2. Will any SJ-C water be used by the Middle Rio Grande ESA Collaborative Program? Will they be allowed to bid or apply for SJ-C water?
9. 3.6 Environmental Justice, Page 23. Table 6, Minority and Poverty Data for Contractors Seeking Contract Amendments. In order to effectively analyze the impacts of the proposed action to minority and/or low-income communities, percentages should include adjacent Indian reservations statistics. All the contractors have adjacent Indian reservations and the SJ-C water is expected to flow through Indian reservations.
10. 3.7 Indian Trust Assets, Page 24, ¶ 2. Under the proposed action, opportunities to acquire SJ-C water upon expiration of water service contracts would be closed out and produce a negative socio-economic impact to Indian communities. Small quantities of water are of great value to the Indian communities along the Rio Grande. If as little as fifteen (15) percent of the 8620 ac-ft were to become available to these tribes, it would go very far toward providing Indian Trust Assets, meeting tribal needs and toward providing permanent homelands for tribes.
11. 3.7 Indian Trust Assets, Page 24, ¶ 3. If the No Action alternative is selected, upon expiration (2016-2022) of water service contracts, will tribes/pueblos be eligible to apply for the various allocations of SJ-C water? This alternative affords an opportunity to acquire SJ-C water during contract renewals for tribes/pueblos. Why will the tribal interest of water resources remain unmet? What can be done to meet the unmet water resource needs of tribes/pueblos? Is only native water available to meet Indian water rights?
12. 4.2 Scoping Process, Page 25. Is it common practice for Reclamation to publish notices in the Federal Register for EAs? This section mentions various scoping meetings seeking comment from the public regarding the proposed action. The amount of public scoping and comments leads us to recommend that an Environmental Impact Statement (EIS) be prepared instead of an EA.

We recommend mitigating the contract conversions by converting a smaller quantity of water than 8, 620 ac-ft, leaving balance for Indian water settlements or, to select the No Action Alternative. Also, we recommend that this EA become an EIS, due to the amount of public scoping and comment sought by Reclamation. There are statements throughout the document that suggest that the proposed action will lead to construction of larger water diversion projects in the riparian corridor including water pumping and treatment facilities, which should be analyzed cumulatively.

We appreciate the opportunity to comment on the Administrative Draft EA. If you have any questions please contact Ms. Priscilla Wade, Regional Environmental Protection Specialist, at (505) 563-3417.

Acting

Regional Director

A handwritten signature in cursive script, appearing to read "Dawn M. Kelly", with a long horizontal flourish extending to the right.