

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Speaker: Mr. Connor

MR. CONNOR: Good evening. Good evening, everybody. I want to -- I realize that there's a lot of people anxious to talk tonight and provide comments and views, so I'll keep my statement pretty brief, and then we'll turn it back to those of you in the audience.

I just want to thank you for attending tonight's hearing. I recognize that you have busy schedules. But public participation is critical to this process, so I appreciate you taking the time out of your schedules to be here tonight.

Although most of you have probably tracked the reason why we're here, I do want to provide some background in context for this whole process. So if you'll just bear with me for a few moments.

We are here because in 1988 Congress enacted the Colorado Ute Water Rights Settlement Act. Among its provisions, the settlement provided the Tribes -- the Ute Mountain Ute Tribe and the Southern Ute Tribe -- a supply of water from the Animas-La Plata Project.

It was a supply that amounted to approximately 53,000 acre feet of depletion allowance in the Animas-La Plata River Basins in return for those Tribes waiving their water rights claims, their federal reserve water rights claims. That agreement took place in 1986. Congress enacted the Settlement Agreement in '88 authorizing the federal role as part of the settlement.

Implementation of that settlement has long been delayed, as we all know, due to environmental and other concerns with the project itself. That delay has now brought us to this period in time. And we've got a question posed to us all right now whether to honor the fundamental tenets of that settlement or to force the Tribes back to court to litigate their water rights claims.

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Mr. Connor (con't)

Secretary Babbitt and the Administration as a whole believe that we should be honoring the fundamental principles of that settlement. Therefore, bringing some finality to this matter is a primary motivation for the Administration proposal and primary item on the Administration's agenda to bring finality to that settlement.

To achieve that, in August of 1998 Secretary Babbitt released a Administration proposal to finalize the settlement itself. In that proposal we proposed a off-stream reservoir limited in size to provide 57,100 acre feet of depletion in the Animas River system.

That amount was derived by limitations under the Endangered Species Act. The irrigation component of the project was eliminated due to water quality concerns and because we did not think it was necessary to achieve finality to the settlement.

But not withstanding that, the limited-size reservoir doesn't provide for all the water contemplated as part of the original settlement. Accordingly, we also propose the creation of a water trust acquisition fund for the Tribes that would allow them to acquire at their own discretion the balance of the water provided in the original 1988 settlement.

As I noted, we did propose as part of that process a reservoir to achieve finality to the settlement. We recognize that that's controversial in this day and age, even with the limited off-stream reservoir.

Nonetheless, we viewed it as critical as part of the settlement to provide the Tribes an assured water supply. We think it was proper to make such a proposal pursuant to our trust responsibility that we have to the Tribes.

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Mr. Connor (con't)

And we also viewed -- took into account the concessions that the Tribes had been willing to make as part of this process, which we also thought had to be incorporated as part of our concept or for a proposal that would bring finality to the settlement.

But, of course, making a proposal doesn't obviate the need for us to do proper environmental analysis of that proposal and to review it alongside a number of other proposals of which there had been several developed as part of the Romer-Schoettler process that went on I think in 1995, 1996, also seeking to bring some finality to the settlement.

Accordingly, we started that process last year, January 1999, through a federal register notice noting that we are embarking upon, yes, yet again another environmental analysis of a variation of the Animas-La Plata Project.

What we did -- and I want to go through kind of real briefly what we've done as part of that process -- is, we developed a list of ten alternatives. I think we originally proposed something like six or seven.

Went through the scoping process back here approximately a year at this time, refined the scope of our analysis, and developed ten alternatives which could in theory be used to finalize the settlement. Two of those alternatives were non-structural proposals.

We took those ten alternatives and underwent what we call an appraisal-level analysis. We looked at the proposals for its ability to -- their ability to meet the project purpose and need, that being primarily to bring finality to the settlement. And we also looked at a number of environmental impacts that have been documented. And we also reviewed various technical and economic factors.

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Mr. Connor (con't)

As part of that process, we reduced the number of alternatives that we were going to review to two: A modified version of the Administration proposal and a non-structural alternative that had been proposed as part of the Romer-Schoettler process. Two widely divergent alternatives, but both which could possibly bring some finality by providing the Tribes an assured water supply in settlement of their water rights claims.

As part of that process, we also had to refine and do a little bit of engineering work on those analyses to give more definition to them so we could do a more thorough analysis. We did that. The modified version of the Administration proposal basically tracked the original concept: An off-stream reservoir limited in size, a water acquisition trust fund. As part of that, we also added a municipal pipeline for delivering the Navajo Nations their portion of water supply from the reservoir.

The non-structural alternative that was developed was a combination of elements that had been developed over time. It includes a preoperation of existing federal facilities, a large water acquisition program as part of it, and also some small -- I guess relatively small structural modifications to existing reservoirs. That combination was looked at as a means to provide an alternative water supply for the Tribes.

This all culminated with the release of the Draft Supplemental EIS on January 14. In that draft we identified a modified version of the Administration proposal as our preferred alternative. We thought it important to do that to basically facilitate the dialogue that we knew would need to happen as part of this process.

We wanted to be very up-front about what we thought was the best alternative to resolve the settlement, and we wanted to put that out there with the analysis so that people could comment on it as part of this process. It's a modified version of the Administration proposal.

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Mr. Connor (con't)

One of the modifications includes a -- the reservoir is increased in size. The original proposal was approximately 90,000 acre feet. The modified version includes a reservoir for 120,000 acre feet. And that increase was basically driven by the need to have some inactive storage in the reservoir to address some water quality and other concerns with the reservoir itself.

So, basically, that's the gist of the preferred alternative here. The estimated cost of that preferred alternative is \$279 million overall. That's new costs that are part of the -- that's part of the alternative that we identified as preferred.

And that includes -- going off the top of my head, I think it's 254 million for the cost of the smaller, limited size ALP. And I think that also includes \$40 million for the water acquisition trust fund which we estimated as the figure needed to allow the Tribes to acquire the remaining part of the water supply that's not part of the reservoir.

And that also includes mitigation and other costs associated with the project itself. There's also -- on top of that is 24 million for the Navajo Nation municipal pipeline.

And this is all documented in the Draft Supplemental Environmental Impact Statement. I just wanted to draw your attention to it.

The refined non-structural alternative we did not select as the preferred alternative primarily because of concerns about that alternative's ability to meet the project needs, its ability basically to resolve the finality with -- the settlement with the finality needed, and also because of impacts -- wetland impacts associated with the water acquisition and transfer program of the magnitude contemplated were the primary factors in our decision on a preferred alternative.

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Mr. Connor (con't)

The estimated cost of that non-structural alternative was \$250 million. And that's also documented in the Environmental Impact Statement.

Last of all, I just want to reiterate the point here and call your attention to it in the analysis. We have relied on in a great part in this analysis -- not exclusively, but certainly significant as part of that process -- that we're here to develop an alternative that can resolve the Ute Settlement. That's our fundamental reasoning for making the proposal, and that's what we intend to accomplish.

So, as part of that process, certainly we have to look at what's necessary to achieve the water rights settlement. And we've documented that in Chapter 5 of the Draft Supplemental Environmental Impact Statement, so I call your attention to that. I think it's important for everybody to take a look at that as you're developing comments.

We also have to have a dialogue with those Tribes themselves, the Ute Mountain Ute Tribe and Southern Ute Tribe, as part of this process. That's something that we've been doing, and that's something that we intend to keep doing as part of this process. It's a settlement of their water rights claims. And certainly their views are very important and an absolute necessity as part of that process.

So that's kind of the background that I want to provide for you-all that provides some context. I realize that you didn't come here tonight to hear me speak. So with that, I'll turn it back over to John, and we can start the hearings process so that all of you have a chance to give your views.

Oh, I do have one other announcement. We have received a request for an extension to the comment period on the Draft SEIS. Presently I think the comment period is slated to end on March 17th.

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Mr. Connor (con't)

We are going to be granting a 30-day extension to the comment period which I think takes us to -- April 16th is 30 days. That's a Sunday. So April 17th will be the new deadline for comments on the environmental documentation.

And we'll formalize that. It will be part of the website and the other public information, I guess newsletters that we've been doing. So we'll get the information out. But while I've got you here, I want to make notice of that for your benefit. Thank you very much.

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Speaker: Mr. Baker

Thank you. My name is John E. Baker, Jr. I'm the Chairman of the Southern Ute Indian Tribe. I was born and raised in Ignacio. My father is John E. Baker, Senior, Southern Ute Indian Tribal member. My mother is a Ute Mountain Ute Indian, Ute Mountain Ute Tribe.

DT-1 Comments noted.

I've heard a lot of good stories here. And I wish some of my students would hear some of these because I'm a former school teacher. But the best story that I like was the story by this young man over here when he was telling you all about how beautiful this area was.

And I was -- while I was listening to that story, I was also listening to my ancestors. And you know what they were saying, the ones from the heavens? They were saying, "Wow, they finally understood what the Indian people have been trying to tell them about protecting this land."

For a hundreds of years you've done that. You done a good job with that. I appreciate that.

If you really want to know what the story is about, all you have to do is just take a moment and think. And it's come down to ten alternatives after hundreds and hundreds of years of not listening to Indian people. And now, all of a sudden, you want to protect the land.

Where were you when this building was built? This was beautiful. I used to come through here when I was a young man out here at this river here. No one was objecting then. Wal-Mart. Where were you? Wal-Mart. Yeah. You see, all of sudden you became Indian experts on certain issues. And what bothers me most about this is that we've had so many chances to try to work things out together. And, yet, the Indian people are still trying to do the same thing today.

1

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Mr. Baker (con't)

Look at all the people that would benefit from it. Southern Utes will benefit. The City of Durango will benefit. The Jicarilla Indians will benefit. And the Navajo people will benefit. Why can't we look at the benefits instead of all the negative sides? Are you going to sell me your land tomorrow, or are you going to give me \$93,000?

I don't think you are willing to do either one of those. Be honest with yourself. Don't contradict the issues here. It's all about not letting Indian people have what they are entitled to. That's what it's about. Think about it. That's what it's about.

Even if we wanted to build a project on Indian land, I will guarantee you all you environmentalists will be there because it's still going to involve tax money. You will. But you're trying to convince the universe that this is not the thing to do.

Well, I hope you go home tonight -- I'm not here to change your mind. If I wanted a round of applause, all I have to do is support Alternative No. 6, right? And then you'd all support me. But that's not what it's about. And you know that in your heart.

Remember the Bible? Talks about lies in there. You came to this country with your missionaries and all that good stuff. Didn't work, did it? Because you're the people that became -- western civilization become the real liars. And you're still lying today.

How can you go to church this coming Sunday and say, "Hey, what we are doing is right"? Think about that when you go to church this Sunday. And we're also going to be thinking about you, believe it or not. We're going to be thinking about the Four Corners area and what it could do with the storage of water.

1
(con't)

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Mr. Baker (con't)

Think about the possibilities for Indian people. When you came to this country, you didn't plan that far ahead, did you? Did you plan on building the Sears Tower? No, no, no. You didn't. Why can't we have the same opportunity as you and build according to circumstances? The more land that was taken, you had more opportunities. The more opportunities you created, the more circumstances you created.

And now you want to give the Tribes \$300 million. Sorry, folks. I can't be bought. Lost enough already. The study shows we're in compliance. It does. It shows that we're in compliance. During a drought season we will be able to release some of that water, help the farmers on this side of the reservation, maybe one day develop that part of the reservation.

I keep turning around here because I'm expecting that sign, "one minute." And when I see something like that -- what was the other sign you had? When I see that, I understand what that means. Time is over. And it will be over if we don't get our heads together here.

Somebody mentioned something about commonsense. Well, there's one thing that I have. I have a Ph.D. in common sense. Ladies and gentlemen, I really don't have that much more to say. But you're going to hear from me again. Thank you very much.

1
(con't
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Speaker: Chairman Ernest House of the Ute Mountain Ute Tribe.

I want to thank the panel for my comments tonight, for allowing me to come and make a presentation on behalf of the Ute Mountain Ute Tribe. Again, I would like to say, welcome to Ute country. Also the people that are here that represents the various -- various organizations that are here, once again we meet here. And I think we got to stop doing this. Or else we get to know each other very good.

DT-2 Comment noted.

Statement from the Ute -- from the Chairman, Ernest House, from the Ute Mountain Ute Tribe in response to the Department of Interior DSEIS, February 15th, the year 2,000. On the behalf of the Ute Mountain Ute Tribe, I offer the following comments in response to the DSEIS issued by the Department on January 14th, year 2000.

2

One, I applaud the Department's thorough and timely -- timely analysis on both the structural and non-structural alternative ways of finally resolving the 1986 Colorado Ute Water Rights Settlement Agreement.

We have always wanted a wet water solution and are gratified that the detailed scientific analysis demonstrate that -- that a reduction -- reduced reservoir at the Ridges Basin will have fewer environmental impact than any non-structural alternatives that will provide increased flexibility in the basin for the benefit of both endangered fish and Jicarilla Apache and the Navajo Nation.

The DSEIS is very efficient -- very effective at making it clear that this proposal is different from the original ALP authorized in 1986 and indeed different from the project which was reconfirmed in the 1988 Colorado Ute Water Rights Settlement Act.

The proposal now before us is a reduction in size and in cost. It does provide -- provide some but not all of the wet water committed to the two Ute Tribes in 1986. And for that we are very appreciative.

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Mr. House, Sr. (con't)

Because there are so -- because there are not sufficient adverse environmental impact involved in the reduction -- reduced projects, we find that the opposition now desperately focuses on the public policy question of whether the State of Colorado and the Ute -- or the United States proper -- probably -- properly entered into the 1986 agreement in the first place.

We ask them as to whether they are prepared to announce -- renounce the agreement of the United States and to break the pledge the United States entered in May 1986 and confirmed by Congress in 1988. If you are, have that courage and decency to tell that to our face.

If you want to honor the pledge to the Colorado Ute Tribes, why not declare victory and support construction of the smaller reservoir and accept the findings of the document that has been proposed now on this table, have no adverse impact on local users of the Animas River, Animas Riverflows, or the Animas River quality. Thank you.

2

(con't)

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Speaker: Mr. Lehman

Good evening. My name is Dale Lehman. I reside at 8960 County Road 250 in Durango. And I'm a micro-economist with 25 years experience doing consulting, research, and teaching. And I have an area of expertise in natural resource economics. And I offer the following comments on the DSEIS.

Milton Friedman, a Nobel prize winning economist, has said there's only four ways to spend money. You can spend your money on yourself. You can spend your money on other people. You can spend other people's money on yourself. Or you can spend other people's money on other people.

Now, clearly with the Animas-La Plata Project, the Bureau is spending other people's money on other people. And paraphrasing of his conclusion is, if you spend your money on yourself, you look for the best value at the best price.

And if you spend your money -- spend other people's money on other people, any damn thing will do, and to hell with the price. That's an apt description of this project.

3

The Bureau has misrepresented the alternatives. I'm speaking now of the two major alternatives, the structural and non-structural alternatives. You have expressed that they are close in cost. But that's a misrepresentation. They are close maybe in terms of the financial costs that the Bureau must estimate.

4

But the Bureau also has an obligation to do another kind of analysis, a benefit-cost analysis. And they have always done them in the past on these projects. I would suggest that you do a benefit-cost analysis on this. You haven't provided it, but I'll provide you what it will show because I have done one.

First of all, the non-structural alternative, the amazing thing is that the \$273 million price tag that you cite is no economic cost at all. It's only financial costs. It is a large financial transfer.

DT-3 Referto General Comment No. 2 for a discussion of project costs, and to Section 2.3.2 and the Attachments for additional discussion of costs for structural and non-structural components. Costs are estimated based on currently available information and projections of future costs.

DT-4 Refer to General Comment No. 1 for a discussion of the need for a benefit-cost analysis.

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Mr. Lehman (con't)

But in itself, it just changes the title to land and water. So there are no real economic impacts from a national point of view of that project. Not only aren't there any costs, there aren't any benefits, either. It is a transfer payment.

A good economic analysis with the exception of legal fees -- which I'll overlook to negotiate all those -- purchase of all those rights -- a good economic analysis would show that to be a break-even project. No benefits, no costs.

The structural alternative is very different. The structural alternative uses real resources, consumes them in the construction and operation of the plant. There are real environmental impacts. And there is real water stored that can be put to uses. And that's what a cost-benefit analysis is all about, to evaluate those.

If you look at the cost of the structural alternative, I made some modifications. I removed the water acquisition fund. It is a financial cost of the project, but it is not an economic cost, either. It is a transfer between taxpayers and the Tribes.

The power costs are a problem, though. The power costs are the financial costs that subsidize power. And as the Bureau has recognized in previous benefit-cost analyses, it way understates the true cost of producing power by a factor of about three.

I've also put back in the salinity costs and the lost-power generation costs in the Colorado Basin which were in the '95 analysis, and I probably down-sized them for the size of the project. The final result is that there's \$393 million of economic costs in the preferred structural alternative.

So what do we get for \$393 million? Well, first of all, we get water. The Bureau has attempted to put some dollar values on what the water is worth, and they are way overstated. I'll give you a couple of examples here.

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Mr. Lehman (con't)

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One is the so-called coal-fired power plant which uses an immense amount of water. There's an estimate in the EIS of the annual revenues such a power plant might bring. If you express that on a per kilowatt hour basis, it is less than half of what the Department of Energy says it costs to produce electricity from a new coal-fired power plant.

Aside from the problem of getting environmental permission to build such a plant, the \$739 million plant is not economically viable. Its water is not worth anything.

6

There is water for an additional 300,000 people who live in this area. Yet I have to point out the population in this area is not constrained by water availability. It is lack of good jobs and lack of affordable housing. This project does nothing about that.

7

The recreation is way overstated. That's the other thing we get for it. I guess I don't have time. It's in the letter documented why it's overstated. But I made some appropriate adjustments. The benefits come out to \$85 million.

So that gives you a benefit cost ratio of 22 cents to the dollar of cost. Put another way, the value of this project is minus \$308 million. This wastes \$308 million of national resources.

8

And to put that in context, that's \$93,000 per tribal member. The real tragedy is that you're not giving the money to the Tribes. The money is being wasted. And a far better project would be to write a check for the Tribes.

And -- 30 seconds. Let me just read you your vision -- your mission statement for the Bureau of Reclamation. "The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interests of the American public."

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DT-5 Comment noted. The coal-fired power plant was provided as a projection of future water uses that could be developed by the Colorado Ute Tribes. Refer to General Comment No. 6 for a discussion of future water uses.

DT-6 Jobs and housing are factors in population growth as is water. Refer to General Comment No. 12 for a discussion of population growth projections.

DT-7 Recreation use estimates for Ridges Basin are based on projections from other similar projects in the area.

DT-8 Refer to General Comment No. 2 for a discussion of relative to project costs and Settlement Act requirements.

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Mr. Lehman (con't)

- 9** | I take that as your promise to the American public. And I would say that is a promise that's been broken with this EIS. DT-9 Comment noted.

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Speaker: Mr. Bannister

My name is Phil Bannister. I live at 251 South Clover Drive in Bayfield, Colorado. And I'm only going to just read a letter I wrote to a whole bunch of people, including Bill Clinton, Babbitt, both the senators and the governor of the state, plus to the Department of Reclamation.

10

"Anyone of even remote intelligence knows the non-structural Alternative 6 to the Ridges Basin proposal makes vastly more sense. No Environmental Protection Agency Impact Statements need be done because water sources are already in place. Plus, the mega dollars for the proposed dam and delivery system will not insinuate additional maintenance expenses because there will be nothing to maintain.

11

"Plus, the delivery system to the Tribe's side of the Animas River is already there, and expensive pipelines need not require the trenching the Animas River as was recently done by Amoco in secretion harming the downstream habitat.

12

"The purchasing of landowner's water rights will eventually satisfy the Utes' domestic and agricultural needs. Also, in the Bureau of Reclamation's own estimates, they saw nothing incorrect in that alternative except it eliminated any M & I uses -- municipal and industrial uses.

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"The City of Durango is recently in the process of funding a separate reservoir in Horse Gulch because it would be cheaper than buying into the Utes' only water rights allocation.

14

"It would only cost \$7 million as opposed to \$8 million to put into the Ridges Basin project where no pipelines were designed in the Durango reservoir, thus eliminating the need to supply the City of Durango and the M & I requirement.

"And if 98 percent of the stored water on Ridges Basin is to go to the building of a coal-fueled power production plant, it will go against the USA's goal of reducing greenhouse gases that was internationally proclaimed recently.

- DT-10 Implementation of Refined Alternative 6 would result in more environmental impacts than the Preferred Alternative, particularly when water was moved off the land for development of future water uses by the Colorado Ute Tribes. Refer to General Comment No. 6 for a discussion of future water uses.
- DT-11 Delivery systems to the Colorado Ute Tribes are described in the FSEIS for illustrative purposes only. Any future development of water uses would be decisions of the Colorado Ute Tribes, and are further described in General Comment No. 6.
- DT-12 Future development of project water by the Colorado Ute Tribes may involve more than just current domestic and agricultural needs. Refer to General Comment No. 6 for a discussion of future water uses.
- DT-13 The use of project water by the City of Durango, and the cost sharing for this use, will be developed in the future prior to construction. For NEPA purposes, projected future uses by the City are discussed in the FSEIS.
- DT-14 The list of potential future water uses are non-binding on the Colorado Ute Tribes, and was included to provide a range of possibilities that might be proposed for use of the project water. Any specific use proposed will be subject to future NEPA review. Refer to General Comment No. 6 for a discussion of future water uses.

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Mr. Bannister (con't)

14
(con't)

"And who needs more golf courses to do a lot of destruction of the environment? Too much destructive pesticide use, herbicide use, and unprotected use of hydrogen peroxide.

15

"Here's hoping you" -- this is the people I wrote to -- "and the Bureau of Reclamation will recommend something intelligent to be done to satisfy the Indians' water rights in the Animas River and go along with a much less destructive option for the worldwide population by discouraging the production of more greenhouse gases and just recommending the non-structural Alternative 6 as your option."

DT-15 Comment noted.

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Speaker: Mr. Black

My name is Michael Black. I represent the Taxpayers for the Animas River tonight. The NEPA process is supposed to be an open, public, decision-making process. Mr. Connor's statement tonight and actions by the Department of Interior, the Bureau, call into question just how open and public this process happens to be.

16

It's clear from the secret meetings of the project's supporters prior to the initiation of the Draft Environmental Impact Statement and later last week meetings with the Colorado Congressional Delegation that the process is failing.

It's obvious to me that the meetings with the project supporters prior to scoping were scoping hearings and conducted in secret. And I don't believe that's legal or right.

While the Draft Environmental Impact Statement is fatally flawed, it does show clearly and conclusively something that we've been saying for sometime. There is no use for this water.

17

The Bureau thought long and hard to come up with non-binding use scenarios for this water, and they failed miserably. A couple of power plants that are probably not economically or environmentally feasible, or get their water from the San Juan River rather than the project.

And the number of golf courses and municipal and industrial needs that can be serviced from either existing projects or contemplated projects is not justification for the massive expenditure and destruction of -- expenditure of hundreds of millions of dollars and destruction of our environment.

Not having a use for the water is hardly a minor issue. Without describing the use, you fail NEPA and you fail the Clean Water Act. In addition, you also fail the law of the river.

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DT-16 Comment noted.

DT-17 Refer to General Comment No. 6 for a discussion of future water uses by the Colorado Ute Tribes. A range of non-binding future water uses was discussed in the FSEIS to meet NEPA procedures, recognizing that the Colorado Ute Tribes may elect to implement some, all, or none of these future water uses. Future water uses will be subject to NEPA analysis if they are proposed. See General Comment No. 7 for a discussion of speculative water uses.

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Mr. Black (con't)

other than Ridges Basin, Bodo State Wildlife Area."

The upper Colorado River Compact, Article 3, Section 2, states "Beneficial uses are the basis, measure, and limit of the right to use." This is for water in the Colorado River. Colorado River Compact, Article 3, Paragraph E states,

"The states of the upper division shall not withhold and the states of the lower division shall not require delivery of water which cannot reasonably be applied to domestic and agricultural uses."

The non-binding use scenarios described in the document fail both tests. They have demonstrated no beneficial use for the water, only hypothetical uses, and only imaginary scenarios. Beneficial use is the right to water. They are not applying water to domestic or agricultural uses, but to imaginary uses.

In addition, the proposed reservoir in Ridges Basin would destroy priceless wildlife habitat. It's buried in the documents. You have to go real deep in the documents to find out exactly what the impacts on Bodo Wildlife Area are going to be.

And you find out that Bodo Wildlife area, 7,000 acres of wildlife habitat will be gutted. The reservoir, campgrounds, pipelines that need to be moved, roads that need to be moved, increased recreation will destroy priceless wildlife habitat. There's no doubt about that.

Now, the Nature Conservancy bought the property. State of Colorado acquired it using federal funds. And all that farsightedness from those agencies will be thrown down the tubes.

I like the way the Bureau describes Ridges Basin in the document. It says, "No preserves consisting of areas designated under federal and state laws for the civic, educational, historical, or scientific value are included in the project area

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(con't)

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DT-18 Refer to General Comment No. 11 for a discussion of the impact of Ridges Basin on elk and deer herds and wildlife habitat. The Dominguez-Escalante Expedition probably followed the old Ute Trail through Ridges Basin, and the Old Ute Trail and Old Spanish Trail are most likely one and the same. Section 3.9 of the FSEIS has been revised to clarify this issue.

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Mr. Black (con't)

18 | Other than Bodo State Wildlife Area. It should say other than 7,000 acres of
(con't) | irreplaceable wildlife habitat. Irreplaceable as the document shows.

Incidentally, in addition to critical wildlife habitat, archeology, open spaces, Ridges Basin is the site of the Dominguez- Escalante Trail which is not described in the document. And I understand Senator Campbell is proposing that as a national trail.

19 | Ridges Basin is dismissed for recreational uses by, of all people -- I don't
| understand -- Jane Zimmerman of the Durango Area Chamber of Commerce
| because of numerous, more superior opportunities for these forms of recreation
| around the Durango area. Current recreational use at Ridges Basin is minimal.

DT-19 | Recreational use of Ridges Basin has been projected based on
| similar reservoirs in the region.

20 | First, I question why the Chamber of Commerce representative is an expert on
| recreation in the Durango area. Second, the fact that it has minimal human use
| only goes to confirm the value as wildlife habitat. Recreational uses are not
| necessarily compatible with wildlife habitat. Hunting, however, is a use.

DT-20 | Comment noted.

21 | The DEIS is flawed, fatally flawed. The Bureau needs to go back to describe
| the real impacts of the project, the real costs. And it needs to do a cost-benefit
| analysis. Thank you.

DT-21 | Refer to General Comment No. 1, for a discussion of a benefit-
| cost analysis for the project.

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Speaker: Mr. Norton

First I want to thank the Bureau for having us all here tonight. And my name is Dylan Norton. I live at 720 East 7th Avenue in Durango.

I want to say the proponents of this project are here tonight. And they will argue that we're here, too. And Mr. Connor said as well, when you addressed us, we're here to analyze the impacts of implementing the Colorado Ute Indian Water Rights Settlement Act of 1988.

The water boards are going to come here tonight, and they will say, "Give our Ute neighbors the water they deserve." State of Colorado may come and they will say, "We owe it to the Tribes to settle these Ute water claims now."

22

What they are not going to tell you in their statements is that two-thirds of the water from this reservoir is either allocated directly to or projected to be sold to municipalities in the Four Corners. Unfortunately, the Bureau never tells us exactly what it will cost or how hard it would be to satisfy the Ute rights alone.

DT-22

Refer to General Comment No. 6 for a discussion of future water uses based on allocation of water from the project for the use by the Colorado Ute Tribes to meet the terms of the Settlement Act.

23

Although you hear said time and time again this an Indian project, I have read the DSEIS. And this is not an Indian project. ALP proponents say there's no other way to provide the Utes with water. To the contrary, the Bureau concludes the non-structural alternative will actually do a better job of providing the Utes with their water.

DT-23

The FSEIS does not conclude that the non-structural alternative would "do a better job of providing the Utes with their water." Section 5.3 of the FSEIS concludes that if it were implemented, the non-structural alternative would have a greater environmental impact than the Preferred Alternative. Further, the non-structural components would represent more risk of not providing water to meet Settlement Act requirements.

24

Water in Ridges Basin is inconvenient at best for the Southern Utes, and it might as well be in California as far as the Ute Mountain Tribe is concerned. It will be cost prohibitive to ever deliver that water to the Mountain Utes, and delivery systems are not included in this proposal.

DT-24

Refer to General Comment No. 6 for a discussion of future water uses.

It makes much more sense for the Tribes to take water on their land where it can be put to use either agriculturally or diverted for municipal needs.

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DT

Mr. Norton (con't)

Proponents of the dam argue that non-structural alternatives are not viable, but the Bureau has proved that they are. Even using the Bureau's own figures, a non-structural alternative is cheaper. And that's an alternative that includes a whole lot of water for Durango, Farmington, and every other municipality in between.

In fact, if you leave out the municipal and industrial component in ALP, there's absolutely no justification to build a reservoir. If you confine yourself to Indian water only, and you plug in the Bureau's own most effective solutions, it could cost a mere \$60 million by my analysis to provide the Tribes' water. That's one fifth of what this proposal is projected to cost.

Of course, we all know that getting the Utes the water is not the point. This project is about providing Colorado more water storage. As the ALP District noted in its comments last year, without storage, there is no practical means for Colorado to gain its rightful share of water. Fred Kroeger in the City Council meeting last week said it again. We are being denied water that we have rights to because of lack of storage. Storage is what this all boils down to.

If the State of Colorado and the water districts thought they could get this kind of water project approved without involving the Utes, they would do it in a minute. In fact, originally the ALP proposals didn't even include the Utes. The Ute claims are attached to the project in the first place to ensure its passage and to expedite construction.

This is not an Indian project. It's a big, fat, sow of a pork barrel boondoggle. It's a free ride, the likes of which many hundred state and local politicians only dream about. It's a federal subsidy large enough to permanently endow over 2,000 more school teachers for Colorado, to place 1500 more policemen on our streets forever.

DT-25 Comment noted. Refer to General Comment No. 2 for a discussion of project costs.

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DT

Mr. Norton (con't)

Instead, this money is planned to go toward pumping water uphill so it can evaporate in a big stagnant pond. One thing is for sure, though. This 120,000 acre foot reservoir will get Colorado one step closer to holding onto the water which it is entitled to in the Colorado River Compact. Watching that water run down to California just kills some of our politicians.

25
(con't)

After Animas-La Plata, at least they will sleep better. And you know you're a true politician if you can sleep after ALP. The drone of the pumping plant is going to keep anybody with a conscience awake at night.

Since I was a child, I have hated waste. My parents taught me to clean my plate before I left the table and to be frugal with my pennies. The waste is what I hate most about this project. It's a waste of money, and it's a waste of natural resources. Why throw our money down the drain simply to keep water from going to California?

I am in full agreement that we must do what is fair to our Indian neighbors. Fortunately, that does not mean building this behemoth of a dam project. I urge the Bureau to go back to the drawing board, analyze what the water rights are that the Utes actually have, and provide us with a project that fulfills the Tribes' needs only.

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DT

Speaker: Mr. Brown

for that.

Well, that's going to be a hard act to follow. My name is Brian Brown. And my livelihood and those that I work for and those that work for me depend on having water in our river. I should say adequate water for kayaking and canoeing and rafting.

The powers of pork continue to kick this dead dinosaur. The proponents of the so-called preferred Alternative No. 4 are desperately seeking to justify the vast supply of M & I water without regard to its environmental, economic, or social costs.

26

The rationale behind this project is to satisfy the Indian water rights. I respect this right, and it needs to be addressed. However, unless you stand to benefit from the pork aspect of this project or the taxpayer subsidy of the growth, development, construction industry, then the Citizens Conceptual Alternative No. 6 makes more sense for the Utes and the taxpayers.

Why is this so-called preferred alternative such a poor idea? Well, I've listed ten reasons. And I could have listed many, many more, but I was under the impression that I had a three-minute time limit.

27

One, it does not include delivery systems to get water to the end user. In fact, it would be \$1 million cheaper for the City of Durango -- which would be the closest proposed end user of this water -- to build their own reservoir and delivery system. Imagine how impractical delivery would be for the Utes.

The above cost doesn't include the \$15 million that it would cost the water district. And for those of you that live in this area, that's us. We're the taxpayers that are going to be paying on this water district tax.

This means that there would be a large tax increase. We, the taxpayers, would be shouldering that, essentially subsidizing the growth and development in this area. And, personally, I really don't think that we should be responsible

DT-26 Comment noted.

DT-27 Referto General Comment No. 6, for a discussion of future water uses and delivery options. There was no intention of developing delivery systems until the Colorado Ute Tribes develop uses for their project water in the future. When they do, a NEPA review will be completed.

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DT

Mr. Brown (con't)

- 28 | Operational costs of this pie-in-the-sky system would be close to \$2 million yearly. The annual energy costs of pumping 11 -- 110,000 acre feet per year 500 feet uphill to Ridges Basin Reservoir, which is currently the Bodo Wildlife Area, would be enough to electrify the City of Durango for a year. DT-28 Comment noted.
- That's -- that's so excessive and wasteful that it really -- it boggles my mind, and I'm surprised that it doesn't boggle the minds of more people.
- 29 | This large-scale diversion of water in the Animas River would cut recreational use of the river by 4,000 user days. This diversion would make the river unusable for rafters and kayakers for most of the year. On the other hand, it would create a projected 2,000 user days for the reservoir. Now, this hardly seems like a fair trade to me. DT-29 Refer to General Comment No. 8 for a discussion of potential recreational impacts and mitigation measures on the Animas River.
- 30 | But every aspect of this project is a loser when a cost-benefit appraisal was done on it. Why is there no cost-benefit study for this new improved proposal? My feeling is because there is no benefit. DT-30 Refer to general Comment No. 1 for a discussion of a benefit-cost analysis for the project.
- 31 | In fact, the 2,000 user days seems highly inflated. Due to the topography of the reservoir and usage patterns, much of the reservoir would be mud flats most of the year. Now, would you want to recreate or camp at a mud flat? DT-31 Comment noted.
- 32 | This proposal would cost taxpayers \$17 million more than the citizens alternative. It will threaten native fishes, destroy Bodo Wildlife Refuge which is a critical elk wintering grounds and migration corridor. DT-32 Refer to General Comment Nos. 9 and 11 for a discussion of potential impacts to endangered species and the elk and deer herds at Bodo.
- 33 | And last, but not least on my list, it will provide enough water to support an additional 200,000 to 300,000 people in the county. Support for this project in my mind is like saying we want to turn Durango into a city the size of Albuquerque. DT-33 Refer to General Comment No. 12 for a discussion of growth in the region.

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DT

Mr. Brown (con't)

Now, is that really what we want here? It's not what I want. This alternative is economically, environmentally, and recreationally unsound. If we look at the citizens conceptual alternative, we see that it meets the Indian waterclaims by purchasing land and water rights. It provides water on the reservations and in areas where it can be used. It does not adversely affect recreation and tourism, has little or no adverse environmental impacts, and it costs less.

DT-34 Comment noted.

34

We know that the pork alternative is not an Indian project because it does not deliver water to the Utes, and fully two-thirds of the water is for non-Indian use. We know that this is pork because it doesn't make any sense. We know that it is environmentally unsound because the pork politicians want it to be exempt from EPA regulations.

We know that we don't want it because we're opening the door to virtually unlimited growth at us, the taxpayers', expense. Thank you.

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DT

Speaker: Mr. Doe

reservations.

My name is Phillip Doe. I chair the Citizens Public Alliance -- Progressive Alliance. We appreciate the opportunity to testify. I have these observations and comments. We will supplement them with a full set of comments by the deadline.

We think project boosters, tribal leaders, and their political allies have the right to continue the great lie that the Indians have been weighing since 1868 to get water. We think they should be allowed to continue to give voice to this lie because it does not rise to the level of shouting fire in a crowded theater.

But we also think the Department of Interior has an obligation to vigorously counter this lie with the truth, that the Utes have between 120 and 150,000 acre feet of water already, and that it has cost the American people hundreds of millions of dollars to develop and protect this water for them.

We suggest that the Department make this declaration publicly and submit it in writing to all of the newspapers in Colorado and New Mexico. It would have a great cleansing effect. If the Department does not have the courage to protect the common good, then it stands guilty of a form of extortion, while the Animas-La Plata Project teeters precariously but on one foundation. That of collective guilt.

We ask the Department of Interior to publicly admit that this century-old policy of forcing the Indian people to use their water for the irrigation of marginal land is at the heart of the pressing imbroglio. It's an ugly and failed policy since it denies the Indians their reasonable option of using their water resources in ways that are most beneficial to them.

For example, the two Ute Tribes, comprised of a little over 3,000 people, have enough water at the present time for the residential needs of a relatively large city. If they were allowed to lease that water on the open market, they could generate tens of millions of dollars annually for economic development on the

35

DT-35 Comment noted.

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DT

Mr. Doe (con't)

35
(con't)

Compare this option with the present situation. How many jobs does this water presently provide through irrigation? And how much revenue does it generate for the Tribes? We've asked these questions repeatedly of the Department. There is only silence.

36

While we're at it, we also advocate that the non-Indian citizens of Colorado be afforded the same rights as their Indian counterparts. Colorado's Constitution declares that the rivers of the state belong to the people. It's well past the time when the people of Colorado reclaim from the development interests the resources that rightfully belong to them.

DT-36

Referto general Comment No. 14 for a discussion of Indian water rights.

37

Our alternative, which has been changed into somebody's else's alternative, the DEIS, was an attempt to engage the interests of the people of Colorado in that possibility. We simply want to show the people that their water creates tremendous value, some of it even monetary, when simply left in the Colorado River system.

DT-37

Comment noted. A table delineating costs by alternative has been added to the FSEIS in Section 2.3.4.

Conservatively, that value is at least \$18 million a year from just the power ALP water presently generates, the water quality protection it provides, and the fisheries it sustains. We ask that you give our alternative a more honest reading.

We also ask that some reasonable aspects of the revenue stream of the public's water might bring at least downstream. A table showing that costs of each alternative and the potential revenue from each which would give all the people of Colorado a way of judging the relative merits of the various alternatives.

You have not done this in the present EIS, even though such an approach is highly recommended in applicable federal guidelines.

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DT

Mr. Doe (con't)

Finally, we are on record as supporting reasonable and just settlement of all Indian water rights. We will continue to support that application, satisfaction of valid Indian claims. In this regard we have asked for a technical study supporting the claims being made for the Indians in the EIS.

38

We think the Indians undoubtedly have some underlying rights on the Animas and La Plata Rivers. But we fear they are greatly inflated to support the need to construct one more giant water project.

We have asked for the technical support buttressing these claims in two forums, with the secretary -- with Secretary Babbitt and in one Open Records Act request with State Attorney General Ken Salazar.

After eight months, we have nothing to show for our efforts but legal bills and delays. These delays only heighten our suspicion that all is not as it seems.

39

Some specific points on the EIS itself that should be corrected. The first table on page 16 is incomplete since it omits quantification of Southern Ute rights on the Pine River. The Southern Utes have between 80 and 90,000 acre feet of direct flow in storage rights on the Pine.

This omission seems to us to be a conscious attempt to deceive the public. The table shows annual operating costs of the project which the public will have to pay until the Indians can find some use for the water.

40

Assumes a power rate of eight mil. This grossly underestimates the power cost of the project and again deceives the public.

41

I have two more comments. Please. I pleaded with the panel at the scoping session in Denver last year to include Navajo Reservoir as an alternative source of Indian water. you failed to include Navajo Reservoir. It has one point million acre feet of storage. Hardly any of that has been used.

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DT-38 Refer to General Comment No. 14 for a discussion of the Settlement Act and waterright claims of the Colorado Ute Tribes.

DT-39 Comment noted. Section 1.2 (Table 1-1) of the FSEIS has been revised accordingly.

DT-40 Comment noted. Power costs stated are consistent with CRSP rates.

DT-41 Navajo Reservoir was included in the analysis as part of Refined Alternative 6. However, utilizing the capacity of Navajo Reservoir to deliver water for the Colorado Ute Tribes negatively impacts the ability of the reservoir to deliver water to the Jicarilla Apache Tribe and Navajo Nation.

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DT

Mr. Doe (con't)

41
(con't)

Why do you continue to do these things? We just -- we can't fathom this stuff. Thank you.

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DT

Speaker: Mr. Wegner

My name is Dave Wegner. I live at 2517 Delwood. I'm a scientist who has spent the majority of my career studying the environmental resources in the Colorado River Basin.

Let me first start out with a little bit of history. September 30th, 1968, Public Law 9537 was brought into existence. It's the public law that brought us the Animas-La Plata Project.

Who was bed fellows in 1968? Well, it's quite an illustrious group. Central Arizona Project, Central Utah Project, California's 4.4 million allocation. Not exactly a group that has kept within the boundaries of cost and certainly within the boundaries of some of their environmental commitments.

Section 102 of that act specifically dealt with what are the purposes of this Colorado River Basin Project Act. As hard as I looked, I could find no golf courses or resorts included in this part of the purposes.

The history of the Animas-La Plata Project goes way back. We've all tread over this land many, many times. The Settlement Act of 1986 indeed changes the landscape. It changed it, but it did not mitigate the responsibilities that we have to follow a public process and the laws and regulations of this country.

The National Environmental Policy Act of 1969 laid out the rules and regulations for NEPA. And in the purposes section, it specifically stated that it -- we are to have provisions to make sure that federal agencies act accordingly to the letter and the spirit of the Act.

Secondly, that the information is available, not only to public officials, but also to all the citizens before -- I stress before -- decisions are made. And ultimately, of course, it is to make the documents better. Not bigger, but better.

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DT

Mr. Wegner (con't)

The 638 process that the Bureau has implemented with this current rendition of the ALP was a bold and innovative maneuver. It did not abrogate the responsibilities to follow a public process. And, unfortunately, that is indeed what's happened.

Meetings have been held where the conservation community and the recreation community have not been invited so the full involvement of people has not resulted. The aspect that comes about as a result of this is that our public trust has again been violated.

The NEPA document that the Bureau has put forth will probably pass the sniff test. But there are several odoriferous parts that makes us -- all should be concerned. The purpose and need. Truly, if you follow the rules and regulations of NEPA, the purpose and need to tell you what, where, how, and when people are planning to do, the alternatives, and, most importantly, why the objectives, and why they want to do it.

I looked through 110 Environmental Impact Statements over the last two weeks. Not one of them have this thing called non-binding alternatives. Now, I've looked. It's a new word. And I -- you know, if it's a new process, it ought to be put into some amendments to the NEPA process itself.

The environmental consequences that have been listed, there are some good -- there is good data that's been laid out there. They identified some of the direct effects.

Unfortunately, what's missing are some of the indirect effects and the cumulative effects of how these environmental elements link together. The short-term and long-term perspectives are not well articulated.

DT-42 Refer to General Comment No. 6 for a discussion of future uses of water by the Colorado Ute Tribes.

DT-43 Additional evaluation on cumulative impacts, indirect effects, and short-term and long-term impacts has been included in the FSEIS in Section 4.4.

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DT

Mr. Wegner (con't)

44

The environmental review and the consultation requirements specifically related to recovery implementation program on the San Juan River, the upper basin recovery implementation programs, and the other biological elements are not linked extensively within this document.

We don't know what the effect of having a flow from Navajo Dam would be specifically as related to changing the operations and the management of the Animas River.

45

Cost-benefit analysis. Several speakers have already spoke to that, so I won't go into great detail. But certainly the environmental and recreational costs are not well put forth.

46

Finally, power plants and coal. I happen to speak a lot around the country on hydroelectric dams and where our electrical industry is going. Certainly coal is not on the front burner any longer.

The moral and ethical obligation that we have here is indeed large. The Bureau has a tremendous responsibility as does the Department of Interior to make sure that we're going through a full and legal process.

I would be the first to say that the Native Americans were not treated fairly when the first deals were cut on water in the Western United States. Does it mean, though, that we have to go forward with a document that's flawed? And the answer to that is no.

The Bureau of Reclamation is in a very good position to carry forth with a new philosophy on finding non-structural alternatives to solve this problem. Rivers are the lifeblood of our landscape. In Durango the Animas River means a lot to all of us who live here.

DT-44

The San Juan River Basin Recovery Implementation Program (SJRBRIP) was linked with the aquatic resource elements of the DSEIS. Reclamation is in the consultation process with the U.S. Fish and Wildlife Service concerning the special status species. It will be the Service that decides the appropriate mitigation measures for the threatened and endangered species. The Service's final Biological Opinion is discussed in the FSEIS and is reprinted as Attachment G. Reclamation has analyzed the potential for meeting the San Juan River flow recommendations with the operation of the ALP Project. The flow recommendations can be met. The other issues, such as the upper basin recovery program, are outside of the scope of this FSEIS.

DT-45

Refer to General Comment No. 1 for a discussion of a benefit-cost analysis for this project.

DT-46

Refer to General Comment No. 6 for a discussion of the future water uses, including the potential water use to support either coal mining and/or a coal-fired power plant.

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DT

Mr. Wegner (con't)

I was encouraged when last Saturday Secretary of Interior Babbitt stood at the base of Elwha Dam on the Elwha River in Olympic National Park and publicly said that we are not looking at rivers today as we've historically looked at them.

47 | Let's all move forward and find the right solution for the Animas River. Thank
you. DT-47 Comment noted.

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DT

Speaker: Mr. Johnson

hasn't even been approved.

48

Good evening. My name is Dan Johnson, and I live up Bear Creek Canyon outside of Bayfield. I'd like to first state that this is the last free-flowing river that we have here in the Four Corners. The Dolores, the Pine, Florida, San Juan, and the Piedra are all currently diverted -- I'm talking about major diversions -- or dammed. This is the last free-flowing river.

So tonight I'm here to represent both myself, my friends who cannot make it, and my family. We run this river a few times a year. It's very important to us. I have some friends here even tonight that I have run this river with. And I'm sure we'd be more than happy to take you down the river and let you check it out.

49

Now, correct me if I'm wrong. But the way I understand this is that we're going to pump water uphill using enough energy to feed a town the size of Durango, and then we're going to use a large portion of this water to build a power plant for -- to cool a power plant to generate more electricity to do, what, run more water uphill? Like a giant merry-go-round?

Now, to me that seems extremely wasteful. Now, we say that water is a critical resource. Yet not anywhere within this plan do I see any word about conservation, about what we could do -- you know, talking about things like low-flush toilets, water heads which don't use as much water. It's not mentioned here in this plan.

50

Yet we're going to take this water, and we're going to use it to irrigate -- not only to irrigate -- for a sprinkler system for non-native grasses for three different golf courses. Also this coal plant has not even been approved. Under current laws it probably would never be approved.

So that brings us back to the original question. What is the water going to be used for? Because why create a reservoir if you don't have a use for the water? But it seems a large proportion of water that is going to this coal plant that

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DT-48 Refer to General Comment No. 15 for a discussion of the current diversions on the Animas River.

DT-49 Water conservation measures discussed in the FSEIS focus on agricultural conservation through eliminating leaking irrigation ditches, converting from flood to sprinkler irrigation, etc. A section on water conservation from domestic and M&I measures has been included in Section 2.4.1.

DT-50 Refer to General Comment No. 6 for a discussion of the future water use scenarios.

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DT

Mr. Johnson (con't)

50
(con't
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Secondly, you also mentioned at the beginning tonight that the non-structural alternatives would be very damaging to wetlands habitat. But there's no word mentioned in this particular document that talks about the cumulative impacts of the coal-fired power plant, the strip mining, the golf courses, and the associated development.

So if this is going to occur, I believe you need to go back and review and look at the cumulative impacts upon the environment of all these particular developments because, especially in the case of the power plant, they are dependent upon this project. So they go hand in hand. But it has not even been approved yet.

I do believe that we need to make good on the Utes' claims, and I respect that. But I believe that there are other alternatives, especially considering the amount of money that we have dumped on this project, that we could look into alternatives. And, once again, that brings me back to how critical water is.

It's extraordinarily critical to us in the Four Corners. Yet we're going to have non-native grasses growing on a golf course in an arid environment. That makes absolutely no sense to me. So I'm also here tonight to represent those -- the future generations who are going to look at this and they are going to ask how ridiculous this was, pumping water uphill, growing non-native lawns.

51

Secondly -- not secondly; probably third or fourth -- is that you say there's -- and I've heard proponents say this -- that all the other water that's coming out of these other projects such as Vallecito and San Juan and the Navajo River, that all this water is already spoken for.

However, in my particular area, the water -- the Vallecito Water Company is planning to bring in central water for those of us who live there. Currently we use well water. Now, I'll be the first to say that I'm willing to give up my tap to make good on the Utes' water claims.

DT-51 Reclamation's analysis did not identify sufficient available water in Vallecito or Navajo Reservoirs to meet a significant portion of the project's water needs. See Section 2.4.1.

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DT

Mr. Johnson (con't)

51
(con't)

But we keep saying that we don't have alternative sources of water. But we do if we use conservation and we take some time to look at additional alternatives to meet their needs. Thank you.

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Speaker: Mr. Ford

- 52 Chairman House and Administration officials, thank you for the opportunity to comment. My name is Kent Ford. I'm a Durango resident.
- DT-52 The 57,100 afy represents a depletion limit set by the U.S. Fish and Wildlife Service under the ESA.
- 52 I'm afraid this DSEIS is biased. In short, it's a classic engineering error. It's based on assumptions that are erroneous. It's based on the assumption that there has to be 57,000 acre feet of depletions for this to be a valid project. And that's an erroneous assumption.
- Measuring the citizens proposals against that assumption made those proposals turn out poorly in comparison. 57,000 acre feet of depletions is a wish list. It is not a need. So let's look a little more at the bias in the DSEIS.
- 53 In the evaluations summary, some of that bias is very clear, leaves out some of the strengths of the citizens proposals. For instance, it says that -- it fails to mention that downstream flows would be very good with the citizens proposals. Yet downstream flows are mentioned as a benefit of some of the other structural proposals.
- DT-53 Comment noted. Changes have been made to Table 2-48 in Section 2.3.4 of the FSEIS for Alternatives 6 and 9.
- 54 It fails to mention that existing recreation is alive and thriving here in this community. For Alternative 9, the other citizens proposal, it says, quote, "This has some merit if combined with other projects." But those -- that merit is not addressed anywhere in the DSEIS. In other words, it says this proposal has merit, but it doesn't do anything with that merit.
- DT-54 The merit of Alternative 9 referred to, was the option of using available water from existing federal storage facilities to meet part of the water needs. This concept has been carried forward as a component of Refined Alternative 6.
- 55 Then let's look at some of the weaknesses. It mentions extra -- it adds extra weaknesses to the citizens proposals to make them look bad. Inappropriate at best is the mention that the citizens alternative has the likelihood of opposition from the farming community. Yet I don't see in a single other alternative any other special groups mentioned as likely to oppose those other alternatives. So I think that's another sign of bias.
- DT-55 Comment noted.

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DT

Mr. Ford (con't)

56

It also shows fatal flaw -- it says that there is a fatal flaw of not providing the ALP and San Juan Water Conservancy Districts with water. Yet time and time again we're told this is an Indian water project. How can there be a fatal flaw of providing those two groups -- not -- for not providing those two groups with water?

57

The DSEIS also failed to examine Navajo Reservoir as a site for storage for New Mexico M & I water. Navajo Reservoir is located in an ideal location for storage of New Mexico water.

58

It also fails to tabulate and come up with a total for the water that the two Ute Tribes already receive through the Colorado Ute Water Settlement Act. Even without ALP, the two Ute Tribes receive 120,000 acre feet of water. This is if we do nothing. And the ALP represents less than 22 percent -- ALP is only 22 percent of the water that is already provided to the Indian Tribes.

Okay. On C-SPAN we hear that the Indians are carrying water bucket by bucket. Our elected senators and representatives say that the Indians are carrying water bucket by bucket. Yet the Indians currently have 120,000 acre feet of water. We need to allow them to develop that water to better use so that they can gain better monetary use from it.

Bureau of Reclamation has the nerve to propose coal plants, golf courses, dude ranches, and generally biggie size the Administration proposal. I would like to suggest that those sorts of proposals in the context of Indian water rights are what's slowing down this project and slowing down the need -- our need to satisfy Indian water rights.

59

It's time we did an unbiased study and included some cost-benefit analysis. Thank you.

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DT

- DT-56 The Settlement Agreement provided for water to Colorado Ute Tribes, other Indian and non-Indian entities. The project purpose and need is based in part on the provisions of the Settlement Agreement and Settlement Act.
- DT-57 Navajo Reservoir was examined as a part of Refined Alternative 6.
- DT-58 Comment noted. The current water allocations to the Colorado Ute Tribes, as well as additional water allocations under ALP Project, are described in Section 1.2.
- DT-59 Comment noted. Refer to General Comment No. 1 for a discussion of a benefit-cost analysis for this project.

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Speaker: Mr. Swingle

Thank you. My name is Jerry Swingle, and I'm a resident of Durango. You have no idea how surprised I and a lot of my friends were by a preferred structural alternative having been chosen by BuRec, an agency with a long history of building and managing structural projects. A system that, I might add, would be a prime beneficiary of the project as lead contractor.

I have a lot of questions about the NEPA process that are brought up by some of what's going on because my understanding of NEPA is that it's intended to provide information that answers critical questions and concerns before a decision is made, not to rubber-stamp a done deal.

This process began with repeated secret scoping meetings between David Hayes of Interior and proponents of the structural alternative. And if some congressional types can be believed, the fix is in.

60

More secret meetings and public announcements that Interior and Bureau of Reclamation's boss Secretary Babbitt is, quote, on board pushing legislation to implement the preferred alternative. It kind of lends itself to the question of what are we all doing here and what's the purpose served by this meeting.

The DEIS ignores many of the points in the scoping beyond the comments of the scoping hearings a year ago. And in the interests of real public participation, I'd like to ask a question of the group gathered here this evening.

61

I'd like to ask how many here are opposed to the preferred alternative and equally committed to a fair and just resolution of the legitimate water rights of our Ute neighbors. And I'd like you to stand.

Thank you all very much. Appreciate it. It's a question that keeps getting raised by proponents, and I thought it needed some clarification. There are a number of legal issues that I see with the preferred alternative.

DT-60 Comment noted.

DT-61 Comment noted. Points raised during the scoping meetings held in February 1999 were considered in the development of alternatives and the evaluations of potential environmental impacts.

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DT

Mr. Swingle (con't)

62

And the process of the Settlement Act specified compliance with state and federal law. And yet Colorado law makes specific provisions precluding speculation in water as opposed to binding -- non-binding use scenarios which I would prefer we referred to as hypothetical or imaginary future water applications.

There's a shift from irrigation to M & I water that requires state water court approval. I see that nowhere in this process. Leasing water out of state, currently a violation of state and compact law; Clean Water Act, compliance with all of the hypothetical or imaginary applications, how would we know? How could you do a good analysis?

63

Economic issues; where is the cost-benefit analysis? Past project configurations have returned anywhere from 25 to 37 cents per taxpayer dollar. Private analyses as you've heard concluded that this project may waste as many as 70 to 75 cents of every taxpayer dollar spent. Where and why is the cost-benefit analysis missing?

64

What is the cost estimate of this proposal as a precedent? What if U.S. taxpayers pick up the tab for future M & I Projects around the country? What's the cost then? What are the cost projections if for all future projects cost overruns are underwritten by U.S. taxpayers?

What if in other projects OM&R costs are indefinitely absorbed by the federal government guidelines while tribes or other entities decide what uses might exist for their water? What if building a pump project is done only to have to release the water back into the river for any practical economic use of that water?

I would also ask in this document, what is the evidence that the ALP District has a demonstrated need for the water and has the ability to repay its share of the project?

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DT

DT-62 Comment noted. The process of transferring water uses from irrigation to M&I uses will require the approval of the State Engineering Office. This process is described in Attachment D to the FSEIS and Section 2.

DT-63 Refer to General Comment No. 1 for a discussion of a benefit-cost analysis for this project.

DT-64 Refer to General Comment No. 2 for a discussion of project cost and cost allocations.

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DT

Mr. Swingle (con't)

We know that Durango has other options and at the present time is staying neutral. It's not committed to this project. TABOR may limit the district's repayment capability, and there are other problems.

65

Where are the cumulative area impacts of coal-fired power plants in addition to the possibility of anticipated oil and gas activities throughout the county and the possibility of a gas-fired power plant?

DT-65

Refer to General Comment No. 6 for a discussion of future water uses. If, at some point in the future, the Colorado Ute Tribes elect to propose a coal-fired power plant as part of the economic development using ALP Project water, it will be subject to all federal environmental laws. A discussion of NEPA "triggers" is included in Section 2.1.1.

66

What guarantees are there of water quality in times of very low natural flow and quality of life issues that have been referenced here: M & I, residential water for up to 200 to 300,000 additional residents and repayment obligations that will drive that growth. With state, local government struggling with this growth and sprawl, this seems to be pushing us in the wrong direction.

DT-66

The projections made are based on the best scientific information available and the assumptions stated. Since the uses are non-binding, the water quality impacts are simply best estimates. Water quality in the San Juan River is monitored regularly as a part of the San Juan River Basin Recovery Implementation Program, so any impacts will be verifiable. A monitoring program in the Animas River is recommended to track impacts. To the extent return flow enters any other stream, it should be monitored as well.

67

I think it behooves all of us who have seen the kind of skewed analysis involved in the non-structural alternative to demand a more honest and balanced review of non-structural, structural alternatives, alternatives that are more legal, more economical, fairer to the U.S. taxpayer, more honest if aimed at meeting legitimate Ute rights, and better for the long-range health of this community and for our environment. Thanks.

DT-67

Comment noted.

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DT

Speaker: Ms. Willson

year or 39,960 acre feet per annum for each.

I'm Verna Willson. I'm from Farmington, New Mexico. Gentlemen: During my years in the engineering profession, I analyzed many government specifications for apparent anomalies. I must say that your DSEIS is one of the most interesting specs I've ever seen. One of its anomalies involves water allocation.

On page 2-23 of Volume I, you say, "The purpose and needs statement describes an intent to implement the 1988 Settlement Act that contemplated an average water supply of 62,200 acre feet per year being made available to satisfy the Colorado Ute Tribes' water rights claims in Animas and La Plata River Basins."

However, that Settlement Act as it appears at Volume II of your DSEIS does not in any way itself quantify the amount of water allotted to either Colorado Ute Tribe or to both together.

Similar but not identical quantities of water do appear in the Colorado Ute Water Rights Final Settlement Agreement of December 10, 1986, which is also included in Volume II as follows: Page 16, Article III, Section A, Subsection 2 allots to the Ute Mountain Ute Tribe from the ALP a maximum of 6,000 acre feet per annum of municipal and industrial water and a maximum of 26,300 acre feet per annum of agricultural irrigation water.

Page 27, Article III, Section B, Subsection 1 allots to the Southern Ute Tribe from the ALP a maximum of 26,500 acre feet per annum of municipal and industrial water and a maximum of 2400 acre feet per annum of agricultural irrigation water. Simple arithmetic yields a total version in that document of 61,200 acre feet per year which, of course, is a thousand acre feet per year less than the quantity given on page 2-23, Volume I.

Yet Table 2-53 on pages 2-95 and 2-96 of that same Volume I shows a total diversion amount for both Colorado Ute Tribes together of 79,920 acre feet per

68

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DT

DT-68 The 1988 Settlement Act ratifies the numbers contained in the 1986 Settlement Agreement. The numbers used in the FSEIS analysis are consistent with those in the Settlement Agreement. For example, the allocation for the Southern Ute Indian Tribe is correctly stated in the analysis as 3,400 afy. The total division is 61,200 af. Table 2-53 in Chapter 2 indicates a total Ute settlement volume of 79,050 af, which represents a depletion of 39,960 afy.

Ms. Willson (con't)

68
(con't
)

That amount is more than 128 percent of the figure contemplated on preceding page 2-23 and a whopping 130.6 percent of the total agreed upon by the Utes in their Final Settlement Agreement of 1986.

69

My first question is this: How do you justify increasing by 18,760 acre feet per year the amount agreed upon in writing by those two Colorado Ute Tribes when they signed the 1986 agreement?

My second question is this: Why do your figures for the ratio of depletion to diversion vary so widely between page 2-23, Volume 1, and Table 2-53 of that same volume?

70

For example, the depletion you show for 62,200 acre feet per year Ute diversion on page 2-23 is 85 and a half percent of the total while on page -- in Table 2-53 the depletions shown are generally 50 percent of their respective diversion amounts.

Does a formula for such calculations actually exist? If so, why is it not equally applied in all cases? Thank you.

DT-69

When adjustments are made for the 13,000 acy depletion to be provided through non-structural means, and the depletions for M&I vs. agriculture, the total depletions proposed for the Preferred Alternative are compatible with those in the Settlement Agreement.

DT-70

A depletion to diversion ratio of 50% is used as a commonly accepted "rule of thumb" for M&I projects. Section 2.1.1 of the FSEIS has been revised to reflect your comment.

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DT

Speaker: Mr. Remington

our responsibility as taxpayers.

Good evening. My name is Sage Douglas Remington, and I reside on the Southern Ute Reservation. I also haul my water, and I do not find it a hindrance or a burden.

I'm the spokesman for the Southern Utes Grassroots Organization. And I'd like to clearly state that SUGO is not opposed to the project. We're opposed to how the project has been designed and how it excludes the Ute people.

The Animas-La Plata project is a special-interest-group-driven water project that has taken many concepts since its original inception. This water project definitely has an Indian blanket wrapped around it as many of my colleagues have indicated this evening, an Indian blanket of inferior quality with enormous social and economic holes.

71

In any other economically, socially conscious environmental arena, the project would not pass any legislative process that was not reflective of its constituency. This water project has been fraught with deceit, lies, and fraud. There has been little involvement from the very people that will pay for the project: The taxpayers. And Indians are taxpayers as well.

For the concerned citizens, taxpayers, environmentalists, Indians, and other concerned parties, we have been relegated to the outside process of determining what will be in this water project.

It's fraudulent because it continues to be filled with charges of racism by the Tribes and the supporters of the water project.

72

On the contrary, I remind you that the Tribes and their supporters have been quite adamant that to ask anything about where the water -- what the water is to be used for is as racist. As late as two weeks ago, the Tribes met with Senator Finegold, and they made that charge. We all have a right to know what the water will be used for since the funds that will pay for this project is

DT-71 Comment noted.

DT-72 Refer to General Comment No. 6 for a discussion of potential future wateruses. The ultimate decisions on the use for project water will be made by the Colorado Ute Tribes through their Tribal Councils.

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Mr. Remington (con't)

broken promises.

The Utes have a legal right to the water and we will -- and with a reservoir that is located on the reservation. What the Ute Tribes and the water conservancy districts should not expect from us is a blank check.

The proponents speak about a moral responsibility that exists to give the Utes their water. The Tribes have developed a multi-million dollar budget that is designed for their own organizational process to improve the lives of their people.

So where is the moral responsibility of the Tribes to educate their membership? There have been no meetings to explain even the latest proposal.

Powerplants, golf courses and other pipe dreams are exactly that: Pipe dreams. If the Tribes expect the taxpayers to pay for their pipe dreams, they also have a moral responsibility to the taxpayer.

This reminds me of Little Eva jumping across the river on iceflows with the environmentalists as the wolves and the taxpayers yapping at their heels.

ALP in its current form will only benefit the non-Indian community with very little benefits to the Southern Ute people. It kind of reminds me of the adage, show me the money. I say, show me the benefits.

The real issue is how the water conservancy districts have sold a flawed bill of goods to the Ute people and their government.

Where were these people and where were you when the Utes did not have money and the Utes did not have the resources? Did you come forward and say, "Here. We want to help better your lives"?

Federal agencies that have a responsibility to the taxpayers have failed to miserably. And, again, I -- so I ask you, the federal agencies, tell us more about

72
(con't)

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DT

Speaker: Mr. Cone

"Number one, in my judgment, there is absolutely no chance that the Southern Ute Indian Tribe or the Ute Mountain Ute Indian Tribe -- you got to remember, the Ute Mountain Ute Indian Tribe are a part of this, too -- would have any chance of winning a lawsuit and obtaining any municipal and industrial water supplies in a legal action.

"Under the Colorado Ute Indian Water Rights Agreement, they are entitled to 25,000 acre feet of water that one of these days they are going to be able to use for their coal resource development when the gas resources are gone. The coal is in the ground out there, and the Tribe is going to be able to utilize that water for their coal resources, so that the alternative of spending another ten years litigating Indian water rights with very little chance of winning in the courts did not seem like a reasonable way to proceed."

These are the words that were spoken ten years ago to the day on February 15th, 1990, in an interview on the KIUP Durango radio show, "For the Record," by Southern Ute Indian Tribal attorney, Frank E. "Sam" Maynes, Esquire.

Any statement advancing an alternative which promotes amendment to the settlement language without first establishing a clear technical basis for quantification and qualification of the Tribes' true entitlements to reserved water rights on the Animas and La Plata Rivers, while it may be politically expedient, is both morally bankrupt and legally unjustifiable.

DT-73 Comment noted.

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DT

Speaker: Mr. Kiernan

My name is John Kiernan. I live at 2185 Linda Lane in Grand Junction, Colorado. I would just like to state at the outset that a moment ago I joined my sagging Achilles tendons to those of more robust quality which stood in unison to proclaim our intent that the Indians should receive every drop of water which is justifiably -- should be justifiably assigned to them.

74

Having said that, though, I must center these brief remarks on the validity of tribal claims for 1886 Winters Doctrine water rights. I do so because this claim is the only remaining reason for an attempt to justify such a prodigal and into-perpetuity waste of public resource as the ALP Water Project would be.

I hold that the Congressional Act of 1880 disestablished what had been the Indian reservation granted the Mouache, Capote and Weminuche bands of Indians in 1868. Claim cases in 1908 and again in 1938 entered against the United States by the Tribes for violations of contract, not trustee relationship, and in 1950 settlement of these claims for \$31.4 million, were the basis for the 1951 res judicata decision by the United States Supreme Court.

That decision interpreted the Act of 1880 to include the Tribes' Winters Doctrine water rights among, quote, all the right, title, interest, estate, claims and demands of whatsoever nature in and to the land and property, unquote, then ceded in its entirety to the United States.

Winters Doctrine water -- said the Court in an obvious interpretation of the obvious principle, Winters Doctrine water sufficient for irrigable acreage of the reservation ceases with the cessation of land.

The Southern Ute Tribe corroborated this judgment when they themselves predicated their claim in the recent coal-bed methane case on the Coal Land Acts of 1909 and 1910. This claim would be worthless had the lands in question, then reserved by the United States and later returned to the Tribes, had not been at that moment of public domain.

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DT

DT-74 Refer to General Comment No. 14 for a discussion of the Colorado Ute Tribe's water claims.

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DT

Mr. Kiernan (con't)

Winters rights are implied arise at the time of the re-acquisition by the Tribe.

Judge Babcock ruled in the case that, quote, the United States has left no doubt as to the meaning and effect of the 1880 Act. The central feature of the Act was to -- was the termination of tribal ownership of the reserved lands and the limitation of Indian ownership of such lands as might be allotted in severalty to individual Indians.

Water rights in this case follow land as night must day. Without the land, the reason for the existence of such rights ceases.

And the Tribes, on the principle of estoppel, would be prevented from having argued in one direction in this case to argue in a different direction in a subsequent case and claim for water.

I further hold that a non-stipulated party such as the CPA has the right to enter an amicus curiae brief to assist the Court by presenting correct information necessary to change the water decision based upon the agreement of 1986, the water court decision.

My interest in this case goes far beyond this application to the Animas-La Plata dilemma. I see here a test to decide whether we are a nation who reverence and abide by the law or whether we can seek avoidance of that law in order to obtain particular private purposes.

Lack of time prevents further discussion of related issues. I remand these to whatever court action will be necessary to substantiate this statement. But just -- I will find a quote if I may have the time.

The Anderson case decision has this quote. "On return of the property to Tribal status, it becomes necessary to utilize the Winters Doctrine to assure that the Tribe has sufficient water to fulfill its very purpose for which the reservation was created. We treat these lands in a manner analogous to that of a newly created federal reservation and find that the purpose for which the

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DT

Mr. Kiernan (con't)

Therefore, we hold that the Tribe is entitled to an implication of Winters rights with a priority for these rights at the date of re-acquisition rather than an original." Thank you.

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DT

Speaker: Ms. Jacques

I'm Nancy Jacques. I live at 2517 Delwood here in Durango. And I thank you for this opportunity to speak. A little over a year ago, I stood here speaking and listening to representatives of the Department of Interior assure the public that now we would have a fair and open process for deciding the fate of the Animas-La Plata Project.

I question the sincerity of that promise as I question the integrity of this document. I'm not going to speak to the specifics in the document. Rather, my intentions tonight are to describe personally some of the contradictions or -- that I have gleaned.

It seems that the Indian Water Rights Settlement Act is open for amendment, but it really isn't open for amendment. It seems that it has been okay or has become okay to change the cost-sharing aspect of the Settlement Act that once required the Utes to pay for municipal and industrial development of water. Now M & I water could be developed for free despite the federal laws that prohibited this.

DT-75 Refer to General Comment No. 14 for a discussion of the Settlement Act.

75

If it was okay to change that aspect of the Settlement Act because perhaps we see such water development as part of our moral obligation, why are we forbidden to check the accuracy of the quality of water rights that belong to the Utes?

When citizens over the past eight months have tried to request documents that would reveal how water quantifications were derived from the Settlement Act, one stall tactic after another was used to keep those documents away from the public, despite our rights under the Freedom of Information Act to have requests fulfilled as soon as is reasonably possible. After eight months, this information has still not been released.

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DT

Ms. Jacques (con't)

75
(con't)

Not having to justify water quantities and not having to pay for M & I use seems to be okay according to this document because -- because descriptions for how water might be used are non-binding. And because they are non-binding, obviously, no cost-benefit needs to be done.

Colorado water law prohibits speculating with water. But this document -- with this document it doesn't seem to matter. Nor does it seem to matter that NEPA requires projects to have a stated purpose.

We can pretend that this project is for sovereign nation, that no one else has an interest in water development. We can forget that this federal project would be built on non-reservation land with taxpayers' dollars. But it is -- is it just to forget and pretend?

It seems from this document that none of these contradictions and the bending of law seem to matter. And that's the trouble. It does matter to me and to a lot of people. We want what is moral, just, and accurate. This document -- this twisting and omission of information represents perfidy, a breach of faith.

76

If there is continued refusal of non-structural alternatives and the breaking of public trust, at this point it seems the only way to get to the truth needs for Animas River water and deserving water rights claims is to go for Alternative 10, no action.

Both the specific needs for water and water rights won't go away. But with Alternative 10, we have the chance to find out what the needs and rights really are. Thank you.

DT-76 Comment noted.

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DT

Speaker: Mr. Utton

destroys that much energy for as long as the project lives.

My name is Orion Utton. I live at 102 Road 2800 in Aztec, New Mexico. And I consider it a privilege to be able to talk to you about this project.

As I reviewed the document, I picked out the things that seemed to bother me in relation to New Mexico.

But, you know, there's other things about this document that really bothers me. And the first one has been mentioned many, many times -- and I hope you pay close note to it -- that you picked an alternative.

And when we read this preferred alternative -- and you spent a lot of time making up reasons why this is the best alternative. And I would have much more respect of this document if you had taken each alternative and really given it a thorough thing and not picked a preferred alternative.

I am strongly opposed to the Ridges Basin Reservoir site. I think it is a terrible waste of this community's money. It's a terrible waste of energy. And I'm strongly opposed to that. There is no need to pump water that far up on the side of a mountain to satisfy Indian water rights. And I just am terribly opposed to that.

The City of Durango isn't -- doesn't need that reservoir up there. New Mexico -- San Juan County, New Mexico, the water there will flow down the river the same way it always has. And there just simply is no need for that reservoir.

I think it's unthinkable to think about a pumping plant that would pump water and use electricity forever for the life of the project.

And there's -- there's other locations that if you just -- if they had been given the same scrutiny as you've tried pushing -- you know, I've been in groups where they say this is the project that the Bureau wants, and this is the one it's going to have. That it's unthinkable to have a project that uses that much and

77

DT-77 A comparative analysis of 10 alternatives, including several structural and non-structural components, was conducted and described in Section 2.3.2 of the FSEIS. As a result of this analysis, a Preferred Alternative was recommended that was environmentally superior to the other alternatives considered.

Mr. Utton (con't)

I am surprised at the non-binding elements of the project, as many others apparently are. Maybe they will build those, and maybe they won't. And as you can see by other people that have talked before me, there's lots of concerns about the projects that they mention.

I'm concerned about the \$40 million of development money. And I just -- I'm appalled at even considering spending that much money without knowing how the money would be spent. I did a little figuring, and I don't know whether my figures are right.

But I compared the amount of money -- the \$40 million that is going to something like 3200 people, to the Navajo Tribe which I am considering something like 150,000 people.

If you gave the Navajo Tribe the same amount of money in proportion to the number of people, you'd be giving the Navajo Tribe one million eight hundred and forty million dollars.

What kind of precedence does this set? I don't think we can give all of the Indian tribes all of the money that they want.

I very definitely feel that no action should be taken until the water is quantified and qualified in courts. I think the Indian water right issue is too complicated to be settled by legislation in the political arena.

And this issue I noticed was addressed, you know, the need for qualifying and quantifying Indian water rights almost at the end of the Volume II of this document.

Thank you for listening.

78

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DT

DT-78 Acquisition of land and water, as well as a range of possible future water uses and their potential implementation are described further in General Comment No. 6. Implementation of some or all of these future water uses may not take place for several years, as decided by the Colorado Ute Tribes. When uses are proposed, they will be subject to future NEPA compliance.

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Speaker: Mr. Belcher

My name is James Belcher. And I live out on Ute Place in La Plata County. And I will make my remarks brief and to the point.

You've already heard many sound reasons, both legal, economic, and environmental, why this project should not be built and indeed should never have proceeded this far in discussion.

I have come here tonight to speak to the overall need to keep the river basin and adjacent wildlife area intact. Let us look to the long term here, not to the short term so-called benefits of development.

79

The river is of immeasurably greater value to all of us -- wildlife, plant communities, and, yes, people -- as a functioning, intact, undepleted part of the ecosystem.

There are no true benefits to anyone in the long term if this project is built. It will inevitably lead to degradation or reduced quality for life for every living thing in this area.

Coal plants, golf courses, strip mines, increased housing and urbanization, further fragmentation of wildlife habitat. Of what benefit are these to anyone in the long term? Developers and a few influential people in the loop will enrich themselves greatly in the short term and then move on, having fouled the nest of all who remain.

80

The non-structural citizens alternative will work. It will allow the Tribes their water and the opportunity to rejoin sundred areas of their lands. And it will not have the negative aspects of an unneeded, uneconomic, and unwanted system of pumps and dams.

Please think about this and take the wise view. Take the long view. Thank you.

DT-79 Comment noted. The long-term health of the ecosystem is an important consideration, and is central to the environmental analysis in the FSEIS. Refer to General Comment No. 11 for a discussion of the wildlife habitat at Ridges Basin, and plans for mitigation.

DT-80 Comment noted. Our analysis indicates that the non-structural citizens alternative, Refined Alternative 6, has greater potential environmental impacts and greater risk of failure than the Preferred Alternative. This analysis is included in Sections 2.3.4, 2.5.2, 2.6, 2.7, 3.2.1, 4.6.4 of the FSEIS.

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Speaker: Mr. Huntington

Good evening. Thank you for the opportunity to be here tonight. My name is Laurence Huntington, 8796 County Road 120, Hesperus, Colorado, 81326. I am a third-generation rancher in the La Plata River drainage. And I have been ranching for the -- for six decades.

Half of that time I have been operating under the hope that the Animas-La Plata Project authorized by Congress in 1968 would make water available for irrigation. Having an adequate supply of irrigation water would have -- would enable me and my heirs and my neighbors to continue ranching, maintaining the open space of which characterized the area.

As anyone can see with a brief glance at the preferred alternatives in the EIS we are discussing tonight, there is no longer an Animas-La Plata Project. There is no feature under the preferred alternatives which would be placed in the La Plata drainage.

81

What we have is an Indian water rights settlement. It is with a considerable disappointment that I recommend that the preferred Alternative No. 4 become the Secretary of Interior's final decision.

The Southern Utes and the Ute Mountain Ute Tribe have indicated that they would accept a settlement of this 19-- or 1868 reserved water right which could be stored with them if Alternate 4 is built.

This would mean that my ranching neighbors and I would not have -- lose this small amount of La Plata River water that we now are using through the -- through the court action by the Tribes.

Also the Durango community, which I have served as a member of the 9-R school board and director of La Plata Electric Association, would have an assured supply of water in dry years.

DT-81 Comment noted.

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DT

Mr. Huntington (con't)

Too many here tonight do not seem to realize that the water rights exercised by the City are junior to the Indians' reserved water rights, and all of Durango could be left high and dry in a prolonged drought.

People who have opposed building of the off-stream reservoir have suggested a resolution of the Indians' reserved water rights that would give the Tribe a large amount of money to buy land and water. They say to tell the Tribe to go out and buy land and attendant water rights equal to their reserved water rights.

These purchases would be from willing sellers. The EIS points out that if they could find willing sellers and if they bought water equal in amount to their entitlement, they would still have a great problem.

Colorado water law provides that the water purchased would be the same rights the seller had. This means if the water right bought had a priority date of 1941, this would be junior to all non-Indian water rights with earlier priority dates.

It means that if the water is irrigation water, the Indians could take the water off the land to use for municipal purposes only after going through water court. Any other water user who believes he would be harmed by removing the water from the land where it had been historically used -- historically used can intervene with the court.

Interestingly, if the water is removed from the land under Article 6 -- Alternate 6, the loss of wetlands would make this alternative far more detrimental to the environment than Alternative No. 4.

Why would anyone with an ounce of common sense agree to settling 1868 water rights for water having priority dates junior to most of the consumptive use rights on the river? Especially when every time the Tribe would try to

glean all or some of the water to another use, it would be involved in lengthy litigation.

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DT

Mr. Huntington (con't)

I can assure you that my Ute friends are not gullible. Time and time again, the two Tribes have said that a process like our Alternative 6 is unacceptable to them. Please move ahead with Alternative No. 4 as rapidly as possible. Thank you.

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Speaker: Mr. Greer

My name is Pat Greer, and I live at 8097 County Road 100, Hesperus, Colorado. I live smack dab in the middle of the project land that would have been irrigated if this project would have been built in its entirety.

I did write a speech. However, I gave it to my wife to look at, and she cut it all out, and there's not much left.

It is like the Animas-La Plata Project. It has been cut -- all the real meat has been cut out of it. And it's -- it's very sickening to us people who live out there and anticipated this water coming into our area for at least since 1967.

I've heard of this project all my life. I was raised -- born and raised on the ranch where I live today. We've been able to eke out a bare existence by me working off the ranch for some 40 years.

I have looked forward to the Animas-La Plata water for most of those years. The original Animas-La Plata would have provided full service water for part of our land and supplemental water for the rest of my land -- and the same for my neighbors -- which would have made it much easier to make a living. Maybe we wouldn't have had to work off our farm all the time.

This would have -- if the project would have been built, it would have increased the wetland areas in the area. It would have made many more of the streams run year-round instead of just partial -- part of the time. Even the La Plata River just runs through the spring months and in the fall is dried up. And it's a very hard place.

Also, if we'd have had irrigation water, the springs would have been much stronger and the wells would have been much stronger. Most of our people out in that area haul our water in whatever containers we can find. It's closer to haul the water eight miles than it is to drill for it.

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DT

Mr. Greer (con't)

Now we're talking about an EIS for only stored water with no irrigation and no water in the La Plata Basin. We have three ways we can go. Number one project, no project. Then the Indians can go to court and sue for their water granted to them in 1867. If this happens, they could take all the water in the La Plata River, drying up the entire La Plata River Basin.

Not a good plan. What would this do to the environment and economy of the country? If you have -- if there's no project built and they take the water, you can bet that that land out there is going to be subdivided, and there's going to be a house on every five to thirty-five acres. And there's water enough for that. But there's not water enough for farming. And this is going to ruin a lot of open space.

Number two, no structural project with the Indians buying up water rights. And if they bought them on the La Plata River, where they probably will buy some -- they would buy some, it's going to ruin the country again.

Also, like Laurence said, all of this water that is bought up is going to have to go through courts to be transferred or the use changed. And this is a long, lengthy, expensive deal to go through.

Not only that, but you buy 2 acre feet, you might end up with 75 hundredths of an acre foot. It's very -- they take a lot of water out for change of use. This is not a good plan.

82

The other one is to build the Indian -- the structural project preferred alternative would divert water from the Animas River. And this also would save us from being robbed of what little bit of water we have. Thank you.

DT-82 Comment noted.

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DT

Speaker: Ms. Wiley

Yep. My name is Nancy Wiley. I live at 160 Hideaway Road in Durango, Colorado. I am a fourth generation resident of the Durango area. And I care about our community.

I also care about our obligations to the Native Americans of this country. I feel it is unfair that they have had to wait year after year for water from a project that is so tied to other water users and interest groups that it is making it impossible to create, and in its current state cost does not even include a delivery system to its end users.

83

If the Animas Project is truly an Indian water project as the proponents claim it is, then why are we not pursuing the most reasonable, fiscally responsible alternative that will meet the needs of the Indians? I am referring to the non-structural citizens alternative.

84

The current preferred structural alternative of the Bureau of Reclamation calls for providing two thirds of the total project water to municipalities, not to Indian users. 40 percent of the project water is designated for New Mexico municipalities.

85

Does this water really need to be pumped up 500 feet into a storage reservoir allowing much of it to evaporate away before it flows back into the natural delivery system of the Animas River and is delivered to New Mexico?

It doesn't make sense. Navajo Reservoir is perfectly located and is somewhat available to serve these New Mexico communities as well.

86

Durango currently uses three to 4,000 acre feet of water per year. The project calls for 15,000 acre feet to be delivered to the City of Durango alone. Is this quantity of water really necessary for responsible, controlled growth in Durango?

DT-83 Our analysis indicates that there are several shortfalls of the non-structural alternative (Refined Alternative 6) which make it less environmentally and practically desirable than the Preferred Alternative.

DT-84 Refer to General Comment No. 6 for a discussion of the future water use options.

DT-85 Refer to General Comment No. 3 for a discussion of water pumping.

DT-86 The FSEIS indicates that the City of Durango would receive 2,500-acre feet of water from the project, not 15,000-acre feet. Refer to General Comment No. 12 for a discussion on growth in the region.

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DT

Ms. Wiley (con't)

87

How should we expect the federal government to subsidize a water project that will provide 62 percent of the project water to municipalities? Shouldn't these municipalities be responsible for and pay for their own water sources?

DT-87 Future costs associated with non-Indian municipal uses will be paid for by those users.

88

Through reading the Draft SEIS, it appears as though the major use for the project water by the Southern Ute Indian Tribe is for a coal-fired power plant which will consume 75 percent of all the Indian water allocated.

DT-88 Refer to General Comment No. 6 for a discussion of future water uses.

This seems to be a speculative use of water as a coal-fired power plant has not been approved by the EPA and very likely never will be because of its proximity to Mesa Verde National Park and to the City of Durango. And adding a coal-fired power plant in this day and age is just not feasible as a source of power.

Speculation in water usage violates Colorado state law and violates the Upper Colorado River Compact. And too much of the Animas-La Plata Project water is for non-binding speculative uses.

And, therefore, other solutions to the Indian water rights issue should be pursued without any non-Indian components complementing the issue. Excuse me. Complicating the issue is what I mean to say. That would make a lot more sense.

89

How can we consider spending more than \$400 million on a federal project without a current cost-benefit analysis? It seems to me that this would be appropriate.

DT-89 Refer to General Comment No. 1 for a discussion of a benefit-cost analysis for the project.

The Bureau of Reclamation argues that creating Ridges Basin Reservoir is going to create a popular recreation site. We have at least six reservoirs in the area open to public recreation, and we only have one Animas River.

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DT

Ms. Wiley (con't)

The Animas River is a symbol of our community which we use in national and international promotion, as in the cover of this magazine, "Durango Magazine."

I have made a living through the Animas River, and I have employed many people in the area and have seen tourists and riverusers from around the world come to Durango and enjoy our free-flowing river. We have an incredible resource in our community, one that is recognized throughout the world.

90

And I encourage the Administration and Congress to oppose the Bureau of Rec's currently preferred structural alternative and support Alternative 6, a non-structural alternative, which could satisfy Indian water rights in a more environmentally friendly, timely, and fiscally responsible way. Thank you.

DT-90 Comment noted.

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DT

Speaker: Ms. Kimbler

My name is Susan Kimbler, and I live out by Baker's Bridge. And while the other speakers this evening -- unlike other speakers this evening, I am not going to thank the panel for the opportunity to speak.

This is not a privilege granted by the panel. It is a right granted to me by the law. And it is not a right. It is an obligation stated in the law, the National Environmental Policy Act of 1969 -- and I quote -- "The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment."

91

I was surprised to hear Mr. Connor say that we are here tonight because of the Settlement Act. The Bureau has clearly placed the cart before the horse. The Settlement Act is the cart that was attached to the ALP Project in 1986. The ALP Project is the horse.

DT-91 Comment noted.

And it is time for the Bureau take a look at the reasons the National Environmental Policy Act brought us here in the first place. I -- I don't have time to quote the Act. But the purposes of the Act were to declare a national policy which will encourage productive and enjoyable harmony between man and his environment.

I will skip over all the other general verbiage. And I would just like to point out one specific mandate of the law. And that is that all agencies of the federal government shall identify and develop methods and procedures that will ensure that presently unquantified environmental amenities and values may be given appropriate consideration and decision-making along with the economic and technical considerations. Thank you.

Speaker: Ms. Voelker

92

Thank you. I'm Louise Voelker, and I live at 12849 County Road 250, Durango. Personally, I would be in favor of Alternative 6-A, not only because it supplies both Colorado Tribes an avenue for wet water from the most desirable places over areas that span several counties, but because this Alternative 6-A also would not be subject to renewal of facilities within a hundred-year time frame as your preferred Alternative 4 would have.

Since the Ute Mountain Ute Tribe just recently purchased 20,000 acres within the La Plata drainage for a proposed dude ranch from willing sellers, this is a positive indication other willing sellers can also be sought from other surrounding drainage to fill the Tribes' wet water requirements.

The drawback with Alternative 6-A, however, is that it still leaves both Tribes holding a commodity that requires a large amount of water to exploit. I'm talking about their coal reserves. Your preferred Alternative 4 allocates the largest amount of water for coal mining and a coal-fired power plant.

These coal reserves are located immediately south of your proposed Ridges Basin Reservoir and runs south towards Highway 140 to the state line where a power plant would likely be built to utilize that vast amount of water allocated.

The plant would probably be centrally located because there are two more plots of coal, one in Colorado at the state line south of Mesa Verde National Park, and the other south of New Mexico towards Shiprock. The potential would be to strip mine these reserves since there are outcroppings that travel 250 to 500 feet underground.

According to present federal law, in order to perform this type of activity, the Tribes would have to go through an environmental analysis for NEPA.

DT-92

As discussed in Section 2.3.2 of the FSEIS, there are several shortfalls associated with Alternative 6a, not the least of which is the inability to provide the water required under the Settlement Act, and thus meet the project purpose and need.

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DT

Ms. Voelker (con't)

Do you honestly think such a project now could pass muster of this Act, or is it contemplated this step could be bypassed in the future? That seems presently being suggested by our Colorado Senator in order to gain his support for soliciting funding from the Administration.

93

While you list coal mining and a coal-fired plant as a non-binding future use for the largest amount of water from the Animas-La Plata Project, nevertheless, the fact is that those coal reserves are there. So even though these are wealthy tribes, I would tend to suggest there could be some other way to compensate them so that those coal reserves, which lie so close to Durango, could remain in ground undisturbed.

To make matters worse, there is this hidden agenda that keeps gnawing at me. From my research, Pittsburgh-Midway Coal has direct water rights of 100 cfs from the Animas River and 24,800 acre feet of storage in Ridges, the exact same amount required for another power plant.

94

I can't believe the local Durango BuRec continually sidesteps the fact that their regional office in Salt Lake City has had talks with this coal mining company since 1969 -- '7 for various means of using their coal resources from this area in conjunction with the ALP.

Yet this coal company, at the time a subsidiary of Gulf Oil Corporation, met with the BuRec and the water districts along with the states division engineer in mid 1980 and subsequently discussed the potential interface and joint development with the Animas-La Plata Project.

They had reached an agreement in 1982 with the former Colorado Ute Association as well as the general director insofar as the general concepts and an understanding of mutual advantages in accordance with the amount of water developed.

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DT

DT-93 Comment noted.

DT-94 Comment noted.

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DT

Ms. Voelker (con't)

These negotiations for, and I quote, joining hands, end quote, are all in the due diligence reports filed with the State of Colorado.

Why isn't this joint development ever written in your environmental reports in order the general public can be well informed on this potential impact?

It is my opinion, then, that this draft is entirely inadequate on this subject. Thank you.

94
(con't
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DT

Speaker: Mr. Radosevich

Animas-La Plata project.

Good evening. My name is Mark Radosevich. I'm a resident of La Plata County. I'm here representing my own company, the Standard Alcohol Company of America. I also represent the Keller Corporation and the Methacoal Corporations of Bonham, Texas, and I represent Biror Corporation, the BiRox Corporation, and the Environmental Oxygen Corporations of Pittsburgh, Pennsylvania.

Being a resident of this area for the last 14 years and having had the opportunity to study the background of the Animas-La Platas Project for the last 35 years, I understand that it's a coal project, that we really do have a water-coal project to disguise it. And I'm very glad to know that the local media has finally let this slip out a little bit in the last couple months. So we can get right to the point, so we can cut to the chase.

I would like to speak and address very quickly my comments to the Southern Ute Tribe, secondarily to the irrigators on the Dry Side who have lost their water out of this project, and, thirdly, to the environmental community of Durango.

I'd like to see an eleventh alternative put on your board in the back. And we're going to call that one the methacoal alternative. It's pretty obvious that the reservoir project south of town is not going to be built. The local people don't want it, and they fought it for 35 years.

I put some coal maps up in the back of the room and some gas maps to show how well delineated the coal field is in this area. These maps are on the back door. We have 4,000 gas wells that have created some very good coal logs for the area.

What a lot of folks don't understand is that our half or \$50 billion gas project here is tied to the largest reserves of high BTU, low sulfur bituminous coal in the Continental United States, which is sunk right in the center of the

DT-95 Comment noted.

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DT

Mr. Radosevich (con't)

I'm going to read very quickly. I know I have very little time.

Fortunately for all of us assembled here tonight, the present ALP plan from 1965 was based upon outdated water-for-coal technologies which have not proven to work.

Rather than developing a secret ALP water-for-coal project, I offer to the Southern Ute Indian Tribe, to the local folks residing within La Plata County, to the multi-national extractive energy firms, and to the ALP and Southwest water boards, an alternate methacoal energy development plan.

The methacoal alternative to the ALP substitutes direct methanol coal-cleaning action in place of secretly planned water flooding of coal seams. Coal and water don't mix. Yet coal and alcohol mix beautifully and create a hot, clean-burning, environmentally acceptable means for the Southern Utes to begin developing a portion of their landlocked low-sulfur coal reserves.

Fortunately, area-wide coal-bed methane becomes the feed-stock to produce methanol profitably at 25 cents per gallon and provides the mechanism for the Tribe to create methacoal, a clean coal alternative fuel.

The profits from the methacoal clean coal alternative fuel source will far outweigh those which the Tribe could ever have hoped to accomplish earning by developing their coal with precious water.

The methacoal alternative for ALP foregoes any need to construct the proposed dam and Ridges Basin Reservoir site. Ridges Basin can remain as an essential habitat for migrating elk populations.

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DT

Mr. Radosevich (con't)

The methacoal alternative to ALP will leave approximately 90 percent of ALP water within the Animas River. I'm speaking of the water which would have otherwise been pumped uphill into Ridges Basin, the water that everyone has been fighting over.

Leaving 90 percent of ALP water in the river should appeal to area river rafters, sport fisherman, and lower Animas River junior water right irrigators farming from Durango south through Aztec and Farmington.

The Southern Utes can explore any number of alternative uses for their clean water which is left in the river instead of developing their coal with it.

And, finally, the methacoal alternative to ALP provides supplemental irrigation water to the La Plata Dry Side farmers and agriculturalists who have sought additional crop water for nearly 100 years for their water-short side of the county. Specialized high-efficiency pumps will be utilized to deliver supplemental irrigation water at Hesperus directly into the La Plata River.

This water transfer function will come from a single pipeline from the Animas River over the coal, not through it, to Hesperus which simply increases the existing water supplies now available to the Dry Side.

The agriculturists can then utilize this supplemental Animas River water through their existing gravity-fed canals and ditches which currently serve the entire La Plata River drainage area.

Therefore, no high-pressure or high-priced water delivery systems are necessary with a methacoal alternative to the proposed Animas-La Plata water-for-coal synthetic fuels project. And this should appease all of us federal taxpayers.

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DT

Mr. Radosevich (con't)

And, finally, the public cost for the methacoal alternative to the current ALP configuration will only be the attorney fees necessary to write it up and the airfare travel cost to present it to Congress once and for all.

I will happy to discuss these and other points of a methacoal alternative to ALP with any and all concerned parties upon request. Thank you very much for this time.

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DT

Speaker: Mr. Browning

river that has been many times expressed here.

Hello. I'm Bob Browning, 333 Browning Parkway in Farmington. And this meeting tonight makes me really glad to be an American where people who have convictions can stand up and express them and work with our governmental agencies in accomplishing something that's beneficial to all of us.

I know there are going to be people who are disappointed with the outcomes of whatever decisions you make. And I hesitate to speak this evening because I never stepped up to the microphone and followed so many eloquent, brilliant speakers about anything.

But there are those of us who have opposed this project for perhaps 15 years now. And personally, even though I recognize the need for water development and water storage -- we all know that.

And we all know that we can grow only as big as we have water to grow. And I appreciate the fact that our Native American friends in the community want the water they are entitled to. We don't have a problem with that.

But the Animas-La Plata Project from the beginning when we -- from the time Ridges Basin came into the picture as a reservoir site has been a monstrous kind of a solution.

And part of that solution and part of that plan was to lift water almost a thousand feet to irrigate Colorado real estate with it, Colorado farms. And there's nothing you can grow -- of course, it's in the energy cost, lift water a thousand feet -- that you can grow legally and make a profit.

Each year you try to farm that land, somebody pays the bill. And that's the American taxpayer. And I'm glad we resisted them. We've resisted through one plan after another. And none of them have come forth yet to really meet the needs of everyone concerned and take into consideration the value of the

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DT

Mr. Browning (con't)

I come from New Mexico. And Farmington has spent millions of dollars beautifying the river and building parks and terraces. And it's an ongoing project.

It doesn't make sense to me that the same people who are promoting and building those things at a very high cost would at the same time be supporting the Animas-La Plata Project in any of the forms that have been presented.

96

The most reasonable -- the best plan that I ever saw for M & I water in New Mexico was coming out of Lake Navajo. And I saw this plan written up right after the reservoir was built. That's been 30, 40 years ago.

And it -- as I understand, the infrastructure was built in the Navajo Dam to supply municipal/industrial water. And it's already there to be tapped into.

And as I say, I know we all want solutions. And I recognize yours is a big job. But we need some common sense. And I was really impressed with what Mark just said. And the solution there I've never heard before. Some of these things need to be really researched before we go off again trying to build a system that really does not work.

97

I can't understand why the Ute people would not want a reservoir close to Ignacio or on the reservation where they themselves would get some direct recreational and other benefit from the project.

I know that the way this has been pushed and pushed and pushed -- it started off the Ridges Basin Project, I guess originally, as I understand it, was not an Indian project. Somebody is planning to make a lot of money.

I don't know how many somebodies. But that has to be a lot of the motivation and put us where we are tonight.

DT-96 Navajo Reservoir was evaluated as part of Refined Alternative 6.

DT-97 Using the approach you suggest to meet the needs of the Colorado Ute Tribes would require construction of two reservoirs, one at each of the tribal centers. No suitable sites for such reservoirs were found that did not have significant environmental, technical and cost issues.

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DT

Mr. Browning (con't)

98 | And so all of this needs to be taken a really hard look at and come up with a better solution than the alternative you've chosen now. Thank you. DT-98 Comment noted.

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DT

Speaker: Ms. McKigney

Thank you very much.

I'm a resident of La Plata County, and I'm a property owner and a taxpayer. And, first of all, I believe we should honor the Indian water rights. Okay. I support an Indian water project only. I support a non-structural -- the non-structural alternative.

99

I do not support a project that will create destruction of wildlife area. I do not support a project that will raise taxpayers' dollars. I do not support a project that will create unlimited growth of this area.

I'm tired of seeing these large trophy homes being built that sit empty ten months out of the year, and then many of these homeowners go on to landscape their property with water-thirsty non-native vegetation. I don't believe that's wise water use there.

Some of the things that we've read in the paper recently mentioned how with the water allocated through municipal -- through municipal water that would be allocated to the area could create a double -- could double the population of La Plata County.

And recently my husband asked me to comment on that. My reply was I thought that this town would be ruined. And then we agreed, "Well, yeah, we'd have to move."

So contrary to a lot of people's belief, bigger is not better. That also is my thoughts on ALP Project, that bigger is not better for the project.

I do not want to think that my tax dollars will subsidize unwise and unwanted growth only to benefit greedy developers.

100

I urge you to please give more serious consideration and study to non-structural alternatives for ALP. From a personal level, I would hate to see the life and the spirit of a river drained by the currently-proposed ALP Project.

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DT

DT-99 Refer to General Comment No. 11 for a discussion of potential wildlife impacts at the Bodo Wildlife area, and General Comment No. 12 for a discussion of growth in the region.

DT-100 Comment noted.

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DT

Speaker: Mr. Stolworthy

I'm Ray Stolworthy, and I live out on County Road 225 on the Florida River. Used to be a rancher over on -- the old Southern Creek Ranch across from Evan's store on the Pine River.

Since then I've been in construction and some lake building, a lot of road building, a lot of cattle hauling and with our fellow member back there, Mr. Huntington. I respect his views, also.

Everybody is talking about there's no alternative to this La Plata situation. And I agree that it shouldn't be built. That formation more than likely carries quite a bit of coal. If not coal, it will have a coal seam.

I'm also aware that there's a lot of this area that, if you dig into the ground, it becomes a porous unit. And it takes many dollars of some kind of material to seal the bottom and keep the water from going out.

I also know where there is some of that south of Dove Creek. They call it bentonite, and it's in the raw form. Our former commissioner, R.T. Scott, bought one time three loads of that. And we brought it in and ground it up. And we took it up above Needles Store and put it in a lake bottom up there that they were having a problem with.

Now, we talk about elevation here and pumping water. And ever since this has come into view, everybody that I've talked to seems to resent the fact that you got to pump water. And I agree with that.

If you go up here by Elmore's Store after dark and you look to your west, or you look east, south, wherever you want to look other than north, you will notice that you can see -- especially if they have the ski run running out at Hesperus -- that you're almost at that same level.

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DT

Mr. Stolworthy (con't)

In Canada they do it. And that water is moving. It's not going to freeze.

Now, we have two existing lakes that are above this elevation, and they will feed that thing by gravity with a tremendous force. Consider what a gallon of water weighs. We can bring pipelines down from off of the Florida. We can feed Durango from there. Or we can also bring it down off the Pine River. And we have an awful lot of water there.

Now, Senator Campbell said we're supposed to give our tax-paid dam project up there to some big water outfit and let them sell water back to us. I don't quite buy that. Looks to me like if we paid for the project, we own it, and not Senator Campbell.

But I'm kind of getting off the subject here a little bit. But I asked our Senator Anderson one time -- he was wanting me to vote for him. And I said, "Well, I'll tell you what." I said, "You know, I see a lot of blackmail by our government."

And he said, "Such as what?"

And I said, "Well, if Congress don't get what they want, they take our tax money away from us and go and build the highways." I said, "If they get what they want, we get to use that tax money. But, otherwise, they take it away from us." And I believe that.

Now, my wife says, "You go down there tonight, you're going to end up in jail." Well, I guess she's going to have to come down and bail me out.

I think if Laurence Huntington takes a drive up there by Elmore's Store at night, look across, and at that elevation he'll see that even he can get water from a big pipeline.

And I don't believe in burying those pipelines. But I do believe that they can follow the source of the rivers or the draws or alongside of some big highway.

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DT

Mr. Stolworthy (con't)

And I say -- and I'm speaking from experience. If you go up on Pine River, you can take County Road 545 across over to 501. Or if you go 228 Road, the County road, it ties in with that over on Texas Creek.

Now, that isn't a very high hill to get through if you want to drill through it, or it's not a very high hill to get over if you want to siphon.

And out here building roads, even on the County, if you decide you want to run water from one side of that barrow pit to the other, you can take the water in on an L-shape under the highway and back up on an L-shape and out the other side.

101

So I say we have the amenity of the water. Let's use what we have. And let's build us a big pipeline you can ride off over the mesa over there. Let the Utes get what they want. At the same time, satisfy everybody else.

DT-101

Comment noted. Reclamation considered the option of a pipeline system, but without some form of water storage somewhere in the system, the pipeline would be subject to unacceptable seasonal variations. This is not acceptable for water used for M&I purposes where reliability is required.

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DT

Speaker: Ms. Hawkins

102

I'm Marie Hawkins, and I live in Durango. And I just want to say that this is one of the most ill-conceived projects ever envisioned. It is a product of the Fifties mentality that has been repudiated as environmentally destructive and costly in more ways than just money.

Resource depletion, habitat destruction, species extinction, and pollution are not aberrations of the so-called progress but its intrinsic products.

We have a world-class treasure here in Durango, the last free-flowing river in the Continental U.S., a river that runs as nature intended it.

At a time when the government is spending millions blowing up dams all over the country attempting to repair some of the damage done over the past 40 years, there are the special interests here that want to spend millions and put up one of those hideous things.

It is disheartening and disillusioning to see Native Americans who have already had their ancestral lands taken and trashed by the Europeans join forces with that same mentality to destroy such a gift. Is money their only god, too, now?

Mine too many rivers, log too many trees, graze too many animals, take too many fish, dam too many rivers, irrigate too many fields, build too many houses, and we undermine our own lives and the natural beauty we profess to love.

It would be interesting to see what would happen if it were put to an open and honest vote of the whole area instead of being rammed down our throats by the politicians and developers.

God help us all if we kill the Animas.

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DT

DT-102 Comment noted.

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Speaker: Mr.Griswold

My name is Mike Griswold. I live in Durango, and I chair the Animas-La Plata Water Conservancy District Board. And I think the group behind me is graphic illustration of the fact that the mind can absorb only what the butt can endure. It is getting a little late.

103

But I do have a copy of a resolution from the Colorado Water Conservation Board endorsing the Animas-La Plata Project as the preferred alternative and HR3112 I would like to inject into the record.

DT-103 Comment noted.

I do appreciate the work the Bureau has done on this supplement -- or draft supplement. It's refreshing to have a government agency announce a time frame and stick to it. So far they have delivered very closely to the time they told us a year ago that they would.

DT-104 The amount shown in the FSEIS for relocation is for relocating four pipelines and an electrical transmission line. Northwest Pipeline Corporation's 26-inch diameter pipeline and the Greeley Gas Company's 10-inch diameter pipeline and its tie-in to the Northwest pipeline will be relocated. The two gas product lines owned by Mid-American Pipeline Company will be relocated at their sole expense in a right-of-way provided by Reclamation as a project cost. Based on the uncertainties of the final relocation alignment, the \$10.5 million cost estimate for this item is reasonable.

104

An example is injection of \$9.2 million to buy the land. The land is already either bought or in the possession of the water conservancy district. And that which has been bought for the reservoir I believe fits in the sunk costs portion and, therefore, is double counted.

105

Also, we've required a pipeline easement through the Ridges Basin have in it a provision that would require the owner of that pipeline to relocate the pipeline at its own expense. But there is ten and a half million dollars in the cost for the project to remove four pipelines. So there's some editing and typing up I think that could be done.

DT-105 Comment noted.

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DT

Mr. Griswold (con't)

106

I do think that we are operating on quite a bit of non-factual data. And we've heard tonight figures that range from 9,000 to 15,000 acre feet the City of Durango would get. The City of Durango's share of the municipal/industrial water is a mere 1,400 acre feet. That's a far cry from 15,000 acres -- or acre feet that has been cited.

Also, the non-structural alternative, I think a little bit of additional checking should be made for Alternative 6 costs. Any time a big wad of federal money is put in an area to buy from willing sellers, miraculous things happen.

107

And I cite the experience the National Park Service has had with Redwood National Park, Point Reyes National Seashore, Sleeping Bear Dunes National Lakeshore in Michigan, things of the like, where they have come forth with estimates of buying land where they were buying from willing sellers.

And they find that every purchase causes each subsequent purchase to ratchet up in price, and they have had to come back to the Congress two and three times, doubling and tripling the initial cost.

So I do believe you've got to take a hard look at the experience factor that another Interior agency has had where you put a wad of money out there and expect to buy land and the attendant water over a 30-year period, and then what happens?

Do we say that the Indians must be farmers? Or are we going to let the Indians make the decisions themselves as to what they do with the water they get?

If they were to decide that "we don't want to use that water that we would get under Alternative 6 for farming," they would have to go through Colorado water court because the only thing they have bought is whatever the rights the sellers sold them for using water with a certain priority date for a specific use on a plot of land.

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DT-106 Comment noted.

DT-107 A 30-year horizon for land and water purchases was considered at, with escalation in price of land values including readjustments at five-year intervals.

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DT

Mr. Griswold (con't)

And they'd have to go to water court and get that changed. But if they did, and they got it changed to municipal/industrial water and took the water off the land, this environmental statement indicates that we would have damaged up to 9,400 acres of wetlands, making this hardly the most environmentally preferred alternative.

108

So, to conclude, I recommend that after a little bit of cleanup and that sort of thing that the Secretary come forth with the decision to proceed with Alternative 4.

DT-108 Comment noted.

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DT

Speaker: Ms. Brennan

109

Members of the panel, thank you. My name is Doris Brennan. I live at 1915 East Third Avenue in Durango. The Animas-La Plata Project was authorized in 1968 to be built concurrently with the Central Arizona Project, which has now been completed. Construction of the Animas-La Plata has yet to begin. This is a national shame.

DT-109 Comment noted.

The Animas-La Plata Project and the allocation of the significant portion of the project's water supply to the Southern Ute Indian Tribe and the Ute Mountain Ute Tribe is the key feature of the 1986 agreement to resolve the Tribes' reserved water rights claims. The Settlement Agreement was the product of over four years of intense negotiations.

The State of Colorado sponsored meetings beginning in 1996 in an effort to seek a compromise to allow construction of the Animas-La Plata Project to proceed in fulfillment of the provisions of the Settlement Agreement.

The process produced two proposals. One, the proposal to construct and modify Animas-La Plata Project supported by project proponents, including the Colorado Ute Indian Tribes and the State of Colorado.

Two, the proposal of the Animas-La Plata Project opponents calling for a cash settlement fund for the Tribes in lieu of the construction of the Animas-La Plata Project, a proposal firmly rejected by both Tribes.

The proposal to construct a modified Animas-La Plata Project reduces the federal cost by more than half. The United States Fish and Wildlife Service was -- favorably completed its Section 7 consultation under the Endangered Species Act on the construction of the modified Animas-La Plata proposal together with an entitlement to deplete annually 57,100 acre feet of water from the San Juan River system.

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DT

Ms. Brennan (con't)

110

It is necessary to amend the Colorado Ute Indian Water Rights Settlement Act of 1988 to secure the construction of a modified Animas-La Plata Project and satisfy the Tribes' reserved water rights claims.

DT-110 Proposed legislation is now being considered in Congress that would result in that action.

HR 3112 introduced by representative Scott McInnis contemplates the construction of such a modified project. The legislation does not include construction of any water transmission facility into the La Plata River drainage or any of the irrigation facilities originally contemplated for the project, a major sacrifice by non-Indian water users in southwestern Colorado.

111

I endorse the modified Animas-La Plata Project as agreed to by the two Colorado Ute Indian Tribes and their non-Indian neighbors and support enacting the pending legislation HR 3112. I support constructing the modified project favored by the United States Bureau of Reclamation Draft Supplemental Environmental Impact Statement.

DT-111 Comment noted.

And, incidentally, I have been a strong supporter of this project for the past 35 years. I studied it carefully. I think I'm on firm ground. Thank you very much.

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DT

Speaker: Mr. Stills

changed, and it's greatly changed to oppose the project.

I appreciate that someone from the Administration is here, especially because I'm guessing that you've seen a lot of folks in the hallways of the White House, perhaps.

I don't know where all these meetings have been taking place with some of the attorneys who may be in the room who represent water districts or lobbyists who represent water districts may have been taking place, or what's been taking place as far as lobbying in Congress using taxpayer dollars from the water districts of this area.

But when you come to Durango, you see something different than what you see there. I don't know what the Administration has been told that we look like, those of us who oppose the project, but I'm guessing we don't look anything in those descriptions like we look here. I have heard that we are fairly well characterized as a bunch of emotional, Indian-hating, water-project-hating wackos.

I'm pleased that you're here because I believe the articulate statements of the evening prove otherwise. It's a thoughtful group of people in this area who are opposed to an Animas-La Plata Project that makes no sense at all, that was ill-conceived as a pork barrel irrigation project that only had life given back into it by an Indian blanket that was woven by Anglo lawyers that makes no sense whatsoever.

You've heard four people speak in favor of the project tonight, aside from Chairman House of the Ute Mountain Ute. All four of those folks were from water districts. Only one identified themselves as such. Those folks -- I don't know how many of them or how many trips they have made to Washington to lobby you using our tax dollars.

Ten or fifteen years ago when the vote was taken, there was a close vote on whether or not it was supported -- the project -- in the town. Times have

DT-112 Comment noted.

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DT

Mr. Stills (con't)

Yet, those water districts that are sending people to lobby you-all and are beating down the doors and spending time in cozying up to the Bureau employees, a lot of which are good folks, are being done so by water boards who are exclusively ALP proponents.

We have corruption running rampant through these water boards. And one of the nice things about NEPA and other process laws such as that is that they were designed with that very corruption in mind. They were designed to root out that nice little, tight, cozy seamless fit that exists in the water establishment.

And I hope that this NEPA process is doing just a little bit and hopefully effectively achieves separating out that corruption and allowing a democratic, a legitimate process to go forward that is based on the law of this country.

And other laws which actually are being ignored within this EIS are the National Environmental -- the National Historic Preservation act, the Endangered Species Act, the Clean Water Act, the Clean Air Act. Numerous laws are totally ignored as far as whether there can be compliance achieved.

It's not being examined in this EIS, although Senator Campbell has put forward a proposal for sufficiency language, which I am guessing is just another blanket thrown over this whole concoction to try to keep from the public view what is actually happening.

I was a member of the ill-conceived, ill-run, and ill-resultant Romer-Schoettler process. I am an attorney. I don't represent anyone here tonight. I'm here speaking on my own behalf. And neither did I in that process. I participated unpaid, unlike the droves of paid pros that were running around all over the place from the proponents' side of this.

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DT

Mr. Stills (con't)

Citizens have dedicated an incredible amount of time and effort into opposing this project. We have tried to figure out just how much government money has been spent to promote this project to send folks to talk to you. What we hear is the attorneys don't keep detailed records of their activities. So us, the members of the public, don't know.

Some of the members of the audience here had to bring a lawsuit themselves without legal representation to try to figure out just what our water districts are doing with our money and how much they are spending on lobbying. We don't know.

113

My point is -- and I'm just -- I'm wrapping up real quick. NEPA, these public process requirements, the requirements of the Administrative Procedures Act, reasoned decision making, informed decision making, hopefully, will cut through tonight. You will see people instead of their paid lobbyists and paid staff and, hopefully, will respond accordingly. Thank you.

DT-113 Your comments and those of the other speakers at the Public Hearings have been given full consideration.

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Speaker: Mr. Grossman

My name is David Grossman. I consider myself lucky to have been raised in Durango. I'd like to begin my brief statement with a note of hope.

The world is on the cusp of a new era, an era where people are starting to address the wrongs done to other people. We have seen the end of apartheid, a fragile piece exists in Northern Ireland, and reparations to Holocaust victims are being negotiated. It is time we, too, honor our obligations to the aboriginal people of the land we call America.

Americans have inherited a legacy of death, destruction, and debt that we have the burden of correcting and repaying. To this end, those of us who feel the burden of debt must work passionately and diligently to ensure we repay our aboriginal citizens for the abuses they have survived. We must finally repay the debt we owe.

114

This repayment cannot, however, come at the price of continued death and destruction. The Animas-La Plata Project in any form is simply a continuation of that pattern of destruction. We must not allow the construction of the coal-fired power plant the Animas La Plata project has always covertly sought to build. It will bring pollution and more debt.

DT-114 Refer to General Comment No. 6 for a discussion of future water uses.

115

We cannot allow the Animas-La Plata Project to flood the Bodo State Wildlife Area under the waters of the -- excuse me -- of the Ridges Basin Reservoir. It will bring death and destruction to the second largest herd of elk in the State of Colorado.

DT-115 Refer to General Comment No. 11 for a discussion of the Bodo Elk herd and the potential impacts of the project on it.

116

We, as citizens, will not allow the Animas-La Plata Project to divert the waters of the Animas River. Without an agricultural delivery system, there will be no life, only death and huge debt.

DT-116 There are a number of existing diversions from the Animas River now that stress the system in low water periods. The Preferred Alternative would result in a net enhancement to the river system.

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DT

Mr. Grossman (con't)

117

The Animas-La Plata Project is not the solution. It is continuing down the path of death, destruction, and debt blazed by our ancestors. It is time to take the high road and find a better solution, a path that addresses the ills of the past and does not burden our children in the future.

DT-117 Comment noted.

In closing, I find it sad that democrat-elected Republican Senator Ben Nighthorse Campbell and other representatives were unwilling or unable to get out of the bed they share with oil, gas, and mining industries to hear the voice of the people they theoretically represent.

Be warned, elected officials. You can be removed as easily as elected.

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Speaker: Mr. Hinds

This morning at sunrise, as the last storm clouds gathered light over the La Plata Mountains and the peaks turned gold with alpenglow, eight elk crossed Ridges Basin.

Several of them stopped in the middle, dark brown and gray shapes against the white snow of the meadow, and kicked up their hooves, bucking and cavorting with each other. It seemed like they were joyful to be in such a fine winter range, unmolested and safe for the season, no matter how much snow should fall in their silver mountain summer territory.

Ten to twelve more elk waited for them on the other side, hidden in the pinon and juniper, already having crossed. Other herds were undoubtedly nearby. They were going south like they always do at this season, headed towards the oak brush below Basin Mountain and the sagebrush flats surrounding the basin.

This is rush hour, February 15th, 2000, in Ridges Basin.

As the sun rose higher and more of the basin came to light, long shadows from the low relief of rabbit brush and grass hummock, a dull sound from the northwest towards Wildcat Canyon and the northeast along the Animas River corridor began to grow. Soon it was a loud roar as if airplanes were taking off and landing.

This is our rush hour. I would hate to hear the rush hour in Washington.

Perhaps we have all been in too much of a rush, unable in our hurry to remember how to listen to the land, how to ask the right questions, how to live with respect for and responsibility to the other members of the natural community.

DT-118 Refer to General Comment No. 11 for a discussion of potential wildlife impacts and mitigation to the Bodo Wildlife area.

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Mr. Hinds (con't)

imprudent and irreverent to create any more permanent incursions into this area's native habitat.

The elk of the west side of the Animas watershed, of the La Plata Mountains, these Animas-La Plata elk were not asked to come to this meeting concerning the future of a critical piece of their winter habitat. They cannot comment on the pros and cons, the alternatives, the legislative process. They are busy living free, wild lives.

I cannot say I have asked in the right ways or listened nearly long enough to know what the land and its inhabitants in this place would have us humans do. But the landscape, and especially the elk, have been good to me. And I feel an obligation to speak out on their behalf.

If the winter range in this area continues to be developed and compromised, the integrity of the whole La Plata Mountain/ Animas River ecosystem will suffer.

If there is a reservoir here with recreational facilities, the elk, and the mule deer, mountain lion, black bear, coyote, bobcat, fox, rabbit, prairie dog, golden eagle, harrier falcons, and myriad other wild animals that live in Ridges Basin will again be displaced from their rightful homes, if not outright killed.

This land will become more sterile and humanized, like so many other places on this planet. That in itself, if I can speak for the land, is the greatest argument against this reservoir in Ridges Basin.

As a human member of this natural community -- just a member with, if anything, less standing than its other inhabitants, given the relatively short time our civilization has been here -- I feel greatly dependent upon this landscape, physically, emotionally, and spiritually.

But when it comes down to it, I have other places to go, other ways to get this sustenance. With the basin flooded and the winter range gone, the elk and the rest of its inhabitants have very limited alternatives. I believe it is highly

118
(con't)

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Mr. Hinds (con't)

118

(con't)

This afternoon as the gibbous moon was rising over Carbon Mountain, the herd of elk below Basin Mountain stretched from their beds in the sagebrush and began to browse lazily to the west. A harrier was working the edge of the arroyo in the middle of the basin. With a quick jump-turn, it disappeared, pouncing on an unlucky rodent in the grass.

This is an arid land. It is spare, but far from empty. That is the fact. Let us not forget what we would destroy by flooding Ridges Basin and creating a recreational facility in this natural, wild place.

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DT

Speaker: Mr. Rogers

I'm Jack Rogers, a Public Works Director for the City of Durango. After review of the Draft Environmental Impact Statement, the City of Durango continues to support the construction of a project that meets the needs of the Utes and Navajo Indian Tribes.

119

The City of Durango cannot commit to take water from the project at this time. The cost of water as described in the Environmental Impact Statement appears to be greater than the cost of alternative supply for the City.

DT-119 Comment noted.

However, if the project as described in the report meets the goals of the Indian Tribes and satisfies Indian water rights claims, they have served the Indians and non-Indian communities, the state of Colorado, including the City of Durango.

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Speaker: Ms. Fritch

I am Kathy Fritch. And I first moved to Durango in 1964, so I'm a long-time resident here. The thing I want to -- I'm impressed with the ideas that have flowed around on both sides, on three sides, on four sides of the situation here at hand. And I don't see any point in reiterating them.

I would like to go back, not to the 1860s, but back to the 1760s when our forefathers rose up and threw tea in the harbor to protest taxation without representation. And that is exactly what I am seeing here.

I am seeing a project that for 35 years or more has been kind of forced upon us illegally, quietly, silently at a cost of several million dollars a year. And we had no choice. We were not given the right to vote whether we wanted this or not.

I remember when they asked the City of Durango if they wanted to accept it. We lived in the county. The video that was shown on television showed a young Indian woman standing in a dust storm pleading for enough water to give her baby a bath. And that is what they asked the Durango residents to vote on: Should that baby have a bath?

And there was nothing in there about coal plants or anything else. It was about giving that baby a bath. And, of course, the people voted to give the baby a bath.

To me this is not honest representation of the situation. I am very concerned that there has been at no time -- any time a change in the attitude of people saying, yes, we are going to build that reservoir right there. With 35 years of protest, there is no attempt to change the plan.

Now we have people trying to come up trying to present alternatives, and we have a board sitting there saying, "We have to meet our time goals. We do not have to listen to anymore presentations. We have to meet our time goals."

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DT

Ms. Fritch (con't)

I still remember a picture of Sam E. Maynes blowing up a stick of dynamite in Ridges Basin and saying the place was officially started, and nobody could stop it now. To me this whole thing is getting a little ridiculous.

We were in Denver two weeks ago, and I picked up a newspaper with a big headline how Durango was going to get a power plant from the Animas-La Plata. Well, I had never seen that in the Durango paper. Excuse me?

I went down into New Mexico, and I picked up a newspaper. And it talked about how the people that lived along the La Plata River had set up their own idea of how they could conserve their own water along the La Plata River and the Animas-La Plata Board had encouraged them to forget it because they were going to be the big daddies and take care of everybody.

Maybe the people on the La Plata River should go back to their idea of trying to save their own river. My goodness. There is funding in the government to preserve old mine buildings on Red Mountain Pass, to repair historic buildings falling down in small towns.

There ought to be enough money somewhere to help the residents of the La Plata River drainage establish their own water system without being bound into a project that is so huge and so unmanageable that we are still fighting it after 30 years.

When I walk out in my backyard, there is a collapsed water pipe, the original water line to Durango coming from way up in city reservoir above Lemon Dam. It was a beautiful thing. It had ceramic pipes. It had pipe clamps. It had cedar slats. It had scaffolding built in the gullies to keep the flow going. I wonder, was that one paid for before it built? We sure don't have it anymore.

DT-120 Refined Alternatives 4 and 6 are described in Chapter 2, and they do not include plans for delivery of water to the La Plata River drainage area.

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DT

Ms. Fritch (con't)

I would like to read out loud -- because it's too good to try to memorize -- a quotation. This was written by Bertrand Russell from the book, "The God That Failed." "Those who have seized power, even for the noblest of motives, soon persuade themselves that there are good reasons to not relinquish it. This is particularly likely to happen if they believe themselves to represent some immensely important cause. They will feel their opponents are ignorant and perverse and before long will come to hate them. The important thing is to keep their power, not to use it as a means to an eventual paradise, and so that what were the means become the ends and the original ends are forgotten except on Sundays."

One more. Thank you very much. I would like to -- I would like someone to tell me how this project can be brought back to a vote to let the people here and now make the decisions on what happens in the Animas-La Plata which are a lot different than the things that were desired 35 years ago.

I don't know how to make it, but let's push for it. Thank you very much.

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Speaker: Ms. Ransom

run.

My name is Sara Ransom, and I'm a resident of Durango. By profession I'm a storyteller, so I've changed my speech many, many times as I listened to other people. And I want to say at the outset that I agree with people such as Dylan Norton and most of the speakers that are opponents of ALP. And I also oppose this.

I'd like to just say, first of all, that I don't want to deny the Tribes their allotted water. This has been said by everyone. But this particular wildly impractical, foolishly expensive and environmentally destructive plan of pumping water uphill where it will sit and it will evaporate and eventually return back downhill will destroy a fine and well-loved and much-used wild river.

And this is not the way to give the Ute people the water that they deserve. And many suggestions have been given.

One, I'd just like to ask, what about the Vallecito Reservoir which would be able to -- if it were to be built up and hold more water, perhaps through gravity the Southern Utes' water rights would be granted. And the McPhee Reservoir, the same thing for the Ute Mountain Utes. And then there's the Navajo Reservoir as also for the Navajo.

We don't necessarily -- well, we ask that we don't need to build it. But I have a lot of feelings why we don't need to build the ALP reservoir in Ridges Basin.

I'd like to just say one thing. A Ute woman was quoted once. She said of this project, "Men make all these decisions about the river. But no one has asked the river what it wants."

Now, I was thinking -- I'm a river runner myself and have -- last summer I went down the river every other day and went often as far as Bondad. And that would be impossible now. You put in this pumping plant, and it would be impossible to run that -- that part of the river. And it's an extremely beautiful

DT-121 All of these reservoirs were evaluated, however, they do not provide sufficient yield to meet the Colorado Ute Tribes settlement.

Ms. Ransom (con't)

I say, let's take the Ute children down the river and show them how wonderful this river is. And then they will tell their elders that, "Don't ruin this river. Let's work for another way to -- that is not to destroy a free-flowing, live, living thing. And there are other ways to get the water." And they would -- the children would talk, you know, to the adults.

122

Another thing about river running and this particular project, you put this pump right there opposite Santa Rita Park, and I'm sure all the people who are the picnicking there will love listening to the drone of the pump plant instead of listening to the laughter of rafters. It's a great honor to listen to a drone.

I ran the river all the way to the far side of Farmington as well. One time. I'll never do that again. It is full of diversion dams that are unannounced. It is -- they are fatal. If you don't see them, if you are not watching the river and you get too close to one so that you cannot exit the river before you hit it, you will die. You will go into the -- over the dam and into what is called a keeper.

Now, I don't know what effect the pump would have to take the water out, if it's the same as the diversion dam or how it would work. But it's right after an extraordinarily wild, wonderful run.

123

The people are going to be trying to run the rapid right first, and if they miss that, they are not in control at that moment. They might even be out of their boat. How are they going to get away from the disaster of a pump plant right after the most spectacular rapids in the river?

Anyway, that's one point. I also agreed with the man who spoke about the Ridges Basin and the elk migration corridor and the winter range. And I'm sorry you guys weren't listening. I was watching you while he was -- had his back to you. You were talking to each other and writing and thinking.

DT-122 The pumping plant would be designed to reduce noise levels at the plant boundary to, at or below, background noise levels. Further, much of the periods of plant operation would take place at times of the year other than during peak summer river recreation periods.

DT-123 Refer to General Comment No. 8 for a discussion of river recreation, including safety concerns for rafters.

Ms. Ransom (con't)

124

The other points -- another point that I haven't quite heard mentioned is, if you want to put a recreational lake next to a uranium tailings pond, I'm not going to swim in that lake, and I don't think anybody should. Don't tell me the groundwater doesn't travel. That is not a safe thing to do at all. Don't even try to tempt me with that.

Also, the ecological disaster of salinity for farmers downstream will be a result of taking water out of that river. And I wrote a letter to the paper saying that we in the interests of truth in advertising should rename Durango if you build ALP, rename it to Duriowa.

Because I come from Iowa. Iowa has these nice little lakes with these very boring campgrounds numbered. And the Iowans will stay there. There's no reason to come to Durango if you create and try to advertise how wonderful a lake will be instead of a wild river. Thank you.

DT-124

In accordance with Uranium Mill Tailings Radiation Control Act (UMTRCA), the Department of Energy (DOE) began hydrogeologic investigations in Bodo Canyon in 1983 during the course of the tailings disposal site selection process. Disposal cell construction began in 1987 and remediation was completed in 1990. As part of the long-term safety and integrity monitoring for the disposal site, the DOE established the Long-Term Surveillance and Maintenance (LTSM) Program. The mission of the LTSM Program is to ensure that the disposal cell continues to prevent the release of contaminated materials to the environment. Groundwater is monitored annually to confirm cell performance. Based on testing for indicator parameters at the point of compliance (POC) wells, the cell is operating as designed and constructed. A localized study of the groundwater regime in the saddle between Bodo Canyon and Ridges Basin has been performed by Reclamation. Groundwater movement under the Uranium Mill Tailings Remedial Action (UMTRA) cell is to the southeast. Surface drainage also effectively isolates the UMTRA cell from the southwest to the southeast. The bottom of the cell is 7040 feet and the maximum water elevation of the reservoir is less than 6968, so that the reservoir will not effect the cell during reservoir operation.

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Speaker: Mr. Anderson

My name is Todd Anderson. I live in Bear Creek Canyon north of Bayfield. I'd like to thank John for letting us applause tonight. I know we're not supposed to. This is very emotional for us. We're speaking from our hearts, a lot of us, not our pocketbooks.

Okay. I don't see you guys being very happy. Most of us are happy people here. There you go, John. I was glad to see you smile tonight. I mean, this is very emotional to us.

125

Pumping water uphill does not make sense. I haul my own water. I know what it weighs. It's not light stuff. I don't think we need more power plants. I just read in the Herald a couple weeks ago, we have two of the worst polluting power plants in the country already. We don't want a third here.

I left California. I studied air pollution there. It's not pretty. We don't want it here. I'm solar-powered at my home. I didn't come here to have dirty air. And don't trash our water, also. Don't build in Ridges Basin. Please.

DT-125 Refer to General Comment No. 3 for a discussion concerning pumping water.

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Speaker: Mr. Dailey

Good evening. My name is Quinn Dailey. I'm a student at Fort Lewis College, and I've lived here for the past seven years. I -- when I'm not on the river kayaking, I live at 640 East 7th Street in Durango. I'm a kayak instructor for Four Corners River Sports. And I've done so for the past seven years.

I am here on behalf of the Animas River. My time spent on the river as a kayak instructor -- kayak instructor, if you could see what I've seen or if you could experience what I've experienced in the past seven years just on this river alone, I am positive that you would realize how blessed we are to have the free-flowing Animas River right here in our backyards.

In fact, as a kayak instructor, I will offer each and every one of you a free lesson, and I will take you down the river. I know it like the palm of my hand, and I love it.

The Animas River has been around long before the arrival of the human species, long before the arrival of politics or greed or money or any of the stuff that I have a very hard time understanding. And I pray that it is still here long after I am gone, free flowing.

DT-126 Comment noted.

I beg you to please look at the overall picture and bring to a halt the Animas-La Plata Project. Thank you for your time.

126

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Speaker: Mr. Carter

Good evening. My name is Sam Carter. I live at 535 County Road 204 in Durango. I had everything written out. I'm sorry. I'm not sure of your name. I would like to say that Wal-Mart as far as I know was tried to get in where the fairgrounds are. It's not there. It's out of town.

Right now Fairfield is trying to put in their time-share condominiums. People are working hard to keep that out of here. Just recently, last week, the North Animas Valley development was turned down. People are trying to keep things from being built.

And I was raised by my father and mother telling me that two wrongs don't make a right. I don't see how all of these previous things -- Wal-Mart -- those being wrongs, legitimize pumping water uphill, taking away elk habitat, creating a reservoir in an area with the nuclear -- the contaminants that are there, those two wrongs don't make a right.

So, to what I wanted to start off with tonight, I will let the economics evaluations, the questions of the environmental statements, the dissections of the plan stand as they have as they show that -- the ills of the structural plan.

I do encourage the very needed cost-benefit analysis to show us where the money is going, where it comes from, and how -- as it has been the pointed out -- it's not going to be enough.

In speaking tonight, I do speak for myself. I also speak for two local families and their seven total children, the FEBOB who are local river running businesses which I work for, businesses who have operated here in the region on the rivers, including the Animas and the San Juan, for over 40 years.

DT-127 Referto General Comment No. 1 for a discussion of a benefit-cost analysis for this project.

127

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Mr. Carter (con't)

I am outdoor educated here in the Durango area and in the Four Corners. In the summer I am fortunate to run the Animas in Colorado and the San Juan River in Utah.

Both of these rivers will have their flows affected by this proposed structural project. These water flows will have -- will -- have been attempted to be emulated. And it is being found on other rivers in the west that emulation does not work.

The Grand Canyon, for instance, the Colorado River and other rivers in the northwest. And this is bringing not only controversy, but it's bringing up about resurrection, getting rid of the dams and getting the rivers back to their natural states.

I'm very proud to be a resident here of Durango, and I want to continue to be proud of that. Durango has an opportunity to take solid stands on such things as the growth with the newly proposed POST plan -- Parks, Open Space and Trails.

And the entire community of the Four Corners has an opportunity to set new standards of how rivers are treated by not damming this one, letting it run free, using other methods of getting water to the Ute folks. And that goes with structural plan No. 6.

The last thing -- I'm sorry. The non-structural plan No. 6.

The last thing I do have to say is that I'm not speaking tonight to deny the Ute people the water to which they are legally entitled. I'm not here to say that at all.

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I'm here to simply say that the entitlement -- to provide the entitlement logically and honestly and utilize the non-structural project, which is No. 6.

DT-128 Comment noted.

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Speaker: Mr. Weston

I guess I better start by telling you who I am. My name is Carl Weston. And I live at 3905 Highway 550, Durango. And I've lived there on the Animas River at Bondad for 33 years. And I have adjudicated pumping water on the Animas, appropriation date I think of 1958.

I've been -- four times we've gone through these encyclopedic environmental statements. And from the very beginning, I've been convinced that the Ridges Basin Project was going to trash out the Animas River. That's why I've endured all this.

Finally, you've admitted it. You used the word "unmitigatable" to describe the fishery in the lower Animas. And the trouble is, the mitigation plan is to pump water over on the La Plata River. And that looks to me in my paranoid mentality like another sneaky, back-door attempt to expand the project after the fact.

Environmental mitigation from Ridges Basin dam down the Animas drainage to New Mexico is the most vulnerable part of the project for unmitigated water quality impacts. This is the only section of the Animas that is not listed under the Total Maximum Daily Load program.

I suspect this is another anti-environmental accountability political maneuver contrived by proponents to avoid environmental accountability. As a primary mitigation measure, this segment of the Animas must be included in the TMDL program, as it's called.

Cumulative and synergistic impacts from lowered stream flow and enormous soil erosion, silting and mud flows from oil and gas activities in side canyons entering the Animas from the west are not addressed in the Alternative -- in Alternative 4.

DT-129

Comment noted. The EPA is responsible for making TMDL legislations in Colorado, and Reclamation is unaware of any proposed action in this regard. Reclamation will be monitoring the water quality in the Animas River as part of the ALP Project baseline studies, and such water quality information will be available to the EPA if requested.

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Mr. Weston (con't)

And without a TMDL program listing, they won't be. The worst example of potential mega-ton silting of the Animas is in a canyon called High Flume Canyon.

Is public distrust of the motives and self-interests of quasi-public water districts like Animas-La Plata Water District and the Southwest Water Conservation District and the San Juan Water Commission District a legitimate NEPA socioeconomic issue?

The BuRec -- Bureau of Reclamation has such an appearance of incestuous conflict of interest involving the Animas-La Plata District, the Southwest Colorado District of closed-door secret meetings and maneuvers and negotiations with non-Indian participants that public confidence in the BuRec is impossible.

Neither the Bureau of Reclamation nor the Animas-La Plata Conservation District would dare -- there's a lady mentioned this before -- to dare put public confidence to a referendum vote in the water districts where property taxes will pay the maintenance and operation costs elevated by blunders, cost overruns, forced stop-gap mitigation, and continued political lobbying for project expansion.

The lead agency status of this project should be transferred to the U.S. Corps of Army Engineers. At least they know how and would be willing to administer the Clean Water Act honestly and fairly with some semblance of integrity.

The waterspeculation involved in non-Indian M & I allocation is illegal under water -- Colorado water law, the more so because the population growth extrapolation used to justify its use is so absurd as to be fraudulent. Propounding and extrapolating fictional growth amounts to aiding and abetting the illegal speculation.

DT-130 Comment noted. The NEPA process for designating a lead agency dictates that Reclamation should be the lead agency. Also, Reclamation has assumed lead for Clean Water Act compliance through Section 404(r) exemption from the Corps of Engineers 404 permit process.

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Mr. Weston (con't)

Were it ever to happen, such extreme growth would be a science fiction nightmare for local rural culture residents, the equivalent to being forcefully exiled to Denver or Salt Lake City.

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This is the fourth attempt by the BuRec to constructively fail to address environmental mitigation. There is no mitigation that is practicable, specific, and timely and quantitatively funded in the preferred Alternative 4. Monitoring is not mitigation.

DT-131

Mitigation measures have been developed in consultation with the Fish and Wildlife Service and other state and federal agencies, and are set forth in Chapter 3. Further implementation of mitigation as commitments of Reclamation are in Chapter 5 of the FSEIS.

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DT

Speaker: Mr. Barr

Dave Barr, Farmington, New Mexico. I kind of feel like I'm preaching to the choir this evening up here. But first of all, I'd like to say I am a retired civil servant. And at one time I resided on the other side of the desk like you are tonight.

At that time working with the Bureau of Reclamation, we, I feel, did our utmost best to make water projects throughout the country -- and the west, particularly -- that we were proud of. And when I say that we were proud of them, when I went home at night and talked to my two boys, I could say I did something today that some day you're going to be proud that I worked on.

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I hope, gentlemen, when you retire you can make the same statement. But with the Animas-La Plata, I don't think you can. I think you need to take a long, hard look, and it won't be very quick before you change your mind. I don't see where you can even justify what you have come up with.

DT-132 Comment noted.

And, on the other hand, I would like to say as a person that has decided to live in the Four Corners area, thanks to Bureau of Reclamation who shipped me here, I decided this is where I was going to retire. And I don't want to see it spoiled.

The chief was up here telling about his ancestors. I know that they believe that their ancestors are watching over them. I hope some day when his kids and his family look back at their ancestors they will be as proud of him as he is of his ancestors.

If you want to know what the whole project is -- I don't care whether you're Indian, Anglo, or what -- look for the money trail. Who owns the property? You heard tonight one gentleman mentioned who owns some of the property. Who is going to benefit from this?

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Mr. Barr (con't)

It's certainly not going to be the taxpayers. It's certainly not going to be the people who live in Durango, Farmington, anywhere in the Four Corners area, or anyplace else in the United States because the taxpayers are going to be saddled with a tremendous bill. And it will be all for naught.

Now, you say this is going to benefit the Indians. Gentlemen, we put in Navajo Dam under the same idea, that this is going to benefit the Indians. You and I know what happened.

San Juan-Chama was the first thing to be built. It was a bone that they threw to the rural land in that valley to get the project done. The Indians, Navajos on NAPI are still trying to get their water to get it completed. They are still hauling water.

Congress in 1973 passed a law giving the Navajos and the City of Gallup approximately 48,000 acre feet of water. They itemized each little county or each little city on the reservation for a certain amount of water. They have never received a drop of this water.

The water that the Navajos are proposed to get out of this pipeline, where is it going to come from? It can't be well water. They want to drink it. Where is it going to come from is a good question. Farmington says, no, it's not going to come from them. So are we going to put in also a processing plant to process this water?

And, also, is this water part of the Navajo water allotment that they were given in '73, or is this additional water that they threw them for a bone to agree with the Animas-La Plata?

These questions were never brought to the surface and answered. And I think we need to look at it and see if they are. Thank you.

DT-133 Alternatives for delivery of water to the Shiprock area of the Navajo Nation are described and evaluated in Section 2.5 of the FSEIS.

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DT

Speaker: Mr. Sosa

that's it. Thanks.

I'm Nathan Sosa. I'm a Fort Lewis College student. I'm originally from Bluff, Utah. I just decided to get away, come to Durango for a few years, get an education, move back home.

Seems like the San Juan River -- we've had fugitives out there. That's the only thing -- you guys probably know about Bluff, we had fugitives there a few years ago. No one could find them. There's too much sagebrush -- or not sagebrush -- too much tamarisk and Russian olive that was planted non-natively.

And it seems like with this project -- I mean, it seems terrible. I mean, there's got to be some other way. I mean, if that river-- people already don't come to Bluff to be on the river because, if the river is low, they can just check the flow reports.

And if they know that the water is low, they are not going to come. If this is going to be put in, it will further lower the water. And they probably still won't come.

But, I mean, the water rights need to be granted. They need -- the Utes need water rights. And it's a terribly dividing issue. I mean, there are two sides to every story. And it's too bad that this is the only time when people can come together and stuff is at nice hearings like this.

Also, growing up in Bluff, it's a pretty hospitable place. Not much goes on there. Got the desert. And the wide-based uranium mill is there. It's a pretty neat place. Radiation probably gets into the water from there.

It's probably -- talk about like the second or whatever -- 24th, 25th, 26th ranked power plants up in Farmington. I'm sure there's extra from there. They probably don't pay their fair share of water. It's a divisive issue. And I think it's -- I think that I like Alternative 11, the Southern Ute Rafting Company. But

DT-134 Comment noted.

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DT

Speaker: Mr. Heart

Thank you for letting me speak tonight. My name is Manuel Heart. I'm from the Ute Mountain Ute Tribe. I'm on tribal council. I'm a native. My ancestors were native, even before this town was called Durango, even before this country was called America.

Now, this guy over here said there was a rush hour of elk. We, as Native Americans and the native wildlife in the 1800s, had a rush hour of white people. They said, "You Indians own a lot of land over there." They are doing the same thing right now they did back in 1800s.

They said, "There's these paperwork. We want some piece of land. We want a piece of it. There's gold up there. We want some of it." The government came in. They said, "This is how much land you Utes are going to have. You guys stay within your boundaries, that's good."

These white people, they come in and they say, "No. We want that. There's gold over there." Beautiful land like this guy describing, wildlife, elk. They come in. They got it through Congressional Act.

Today two Ute Tribes are down in the very corner of southern Colorado. Do these people come across -- they drive across our reservation, my reservation down in southwest corner. It's not green over there. There's no water over there.

You know, kind of makes me mad, somebody coming up here and telling me, "Manuel Heart, Ute Mountain Ute Tribe, I have an alternative for you. I'm going to give you money for that water so I can kayak down the river."

My grandson is going to come to me and say, "Dad, I hope you didn't give up our water rights so somebody can kayak on it. I was thinking of using it for future development for our tribe to go into the future."

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DT

DT-135 Comments noted.

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DT

Mr. Heart (con't)

These guys that are here talking, saying, "Yes, we don't -- we're opposed to the Animas-La Plata Project." They never came to me and said, "Manuel, you know what? I have an idea for you. I have sympathy for you because you're an Indian, and you can't get your water over to your reservation. But I don't feel empathy for you. I don't know what it feels like to be Indian and to live on a reservation."

That's what these people don't feel is empathy for us. I have something they want. It was land. It was gold. It was our wildlife. It was our respect of the land. Now they want our water.

They are saying, "Yeah. What we did a hundred years ago, we'll do the same thing. Here's our pocketbook. Ute Mountain Ute, we'll give you this much. Southern Ute, we'll give you this much. You can go out there and buy land. There's lots of land out there for sale and water rights to go with it."

But it doesn't say senior rights. When we buy that land, they are going to say, "You're going to have to put it in fee." They are not going to say you can put it in trust where what we can do with it what we want to do, like we want to do with this water.

I'm ashamed of these people coming up here telling me how to live, telling me how to use my water. I stand here for 2,000 people, 2,000 tribal members from my tribe.

There's a gentleman here said all you people out there support the Indians. There's a room full.

I could bring my tribal members in here, and we would fill this whole parking lot, including the Southern Ute Tribal members. They feel this water is theirs. They don't need people coming in here telling them how the use it.

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(con't)

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Mr. Heart (con't)

grandkids or my kids.

We have ideas. We want to develop this water for the future of our generations to come, that are not here yet. Every time we get to a point where economic development is good for us, somebody waves a flag. "Hold on, Indian. We already been there."

There's environmental law. There's some kind of law. "You guys can't go through it." They put a -- put a red -- red line there. "You can't cross it until you do all these -- analyze it. We got to study it first."

No. The Constitution was written that all men are created equal. Senator Campbell respects that Constitution. I am equal just like every one of you guys. I have a mind to do what I want to do for the future of my kids, my grandkids that are not here.

I'm not going to tell my grandkids and say, "I sold your water so people like these guys can go kayak on it, go rafting." No. I'm looking for the future. I'm looking long term. I'm not looking short term.

You know, it was inevitable, the coming of the white man. It's inevitable, the growing population of Durango. People from all over this country are coming to the state of Colorado and saying, "Oh, I'm a resident now. I'm a native. That water is mine."

Then they say, "Who is the Ute Indians? Oh, they got senior water rights. Hmm. How can I get it away from them? I'm going to bring up all these people, supporters, organizations. We're going to throw red flags in front of them. And environmental issues."

Just like the chairman said, we said that a hundred years ago, and you guys still came and got Colorado. We're down here in the corner over here. You guys don't come over and say, "How you doing? You know, that land could do something good for you." You guys don't look out for the health of my

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(con't)

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Mr. Heart (con't)

money. I want my water. That's what I want.

I'm trying to do that now. I'm trying to get help. We're the lowest minority right now in the United States getting any kind of funding. You guys say you guys are taxpayers. I'm not exempt from taxes. I pay taxes just like you guys. I'm a taxpayer, too. I think it's going to profit for my kids.

You guys are the majority. You guys, there's a lot of you. I have 2,000 tribal members. I'm speaking for their future. That's why. That's why I come here tonight. You know, it's good that you have it on record. I say to the grassroots people, in Ute I would say, "Wuro wukapu nanama mamauk pachuvani tawi towachiuwei."

That's saying, "Let's work together for the future of our children." If you have ideas, then let's do it together. Let's not work one against one another.

That's exactly what we're doing right now with the farmers up here. Hundred years ago, we would have attacked them, tried to get these guys out of there, push them away. They are getting our land. Let's raid them.

Today we can't do that. There's so many of you. So we try to work with you. We try to work with you. And as soon as we start working with you, some other group comes up, throws a red flag. "Hey, you can't do that. You're informing on somebody else that's not going to benefit you." They are benefitting themselves.

We're trying to do something positive for our Tribes. We're trying really hard. And when we get there, people throw things in front of us, red flags, red tape.

You can't do that. I think that Constitution was meant for me, too. I have rights, too, as a part of this country. I have a mind of my own. I have a heart. I'm speaking from my heart. That's my last name, "Heart."

I'm not speaking from the billfold. I don't want your billfold. I don't want your

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(con't)

DURANGO, CO TRANSCRIPT (February 15, 2000 Public Hearing)

DT

Mr. Heart (con't)

So I wish you guys, when you go home tonight, I don't want you guys to feel sympathy for me. I want you to feel empathy, feel what it is to be Indian. Feel what it is to live on the reservation, feel what it is to be pushed to a corner.

Funding is low. Health care costs. Education costs. Economic development, that's what we're striving for. We live in a new millenium now. I advocate for my people because I want the betterment for their lives. We live in a fast life right now. We have to live together as one.

That's why America is the greatest country in the world. Because they join in a joint effort with the people that are living there. They didn't fight amongst each other. They didn't nag about, "I want to take this. That's mine." Because there's a growing number of people, they work amongst each other for the benefit of the future.

That's what the Constitution says. Men are created equal. I am one of them men in that Constitution. I stand for the water that I own. I am not giving it up to kayakers or rafters. I want to develop it for the future of my kids and the future generations to come.

My tribe is growing, just as Durango is growing. We have needs, just like you. We have a body, mind, heart, just like you. We have pride. We're happy. We laugh. As long as that is one, as long as you have a heart, then we can move forward.

This has gone on long enough. My grandfathers have taught me that. Said as long as this water runs through your land, respect your land. Respect who you are and where you come from.

That's what your forefathers wrote in that Constitution, too. They had vision. So that's what I say to you guys tonight. Thank you.

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(con't)

