

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Speaker: Mr. Conner**

Good evening, everybody. First of all, I know that there are people here that want to make comments and get on the record on their views on the process that we've initiated here for them. I'll keep my comments brief.

But I do think it's important to provide some background and context to the federal goals and position in this matter and what we're trying to accomplish. And for those of you at the hearing last night, I kind of changed my little discussion a little bit, so it's not the same little talk that you heard last night.

I've actually got a more articulate presentation tonight, because I'm actually going to read a letter that Secretary Babbitt released yesterday. And it's a letter in response to a letter sent to him by national environmental organizations in opposition to the Administration's proposal for finalizing the Ute Settlement. I think it does a much better job than I can do in articulating what we're trying to accomplish here, so I'd like to take a minute to read this to you all:

"As you are aware, in 1988 Congress enacted the Colorado Ute Water Rights Settlement Act which secured for the Ute Tribes a specific quantity of water from Animas- La Plata to settle their water rights claims in the Animas and La Plata River basins. Implementation of this settlement has been long delayed, thus denying the Tribes the benefit of the agreement they reached with their non-Indian neighbors, the State of Colorado, and the United States in the mid-1980s. The delay has triggered a clause in the settlement agreement which now necessitates a decision -- whether to honor the fundamental tenets of the settlement or force the Tribes to litigate their water right claims.

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**Mr. Conner (con't)**

"In August 1998, I presented an Administration proposal to finalize implementation of the 1988 Colorado Ute Water Rights Settlement Act. At that time, I made it clear that we would not take environmental shortcuts in resolving this issue. Accordingly, our proposal was downsized to satisfy our responsibilities under the Endangered Species Act. In addition, we committed to submit our proposal as well as competing proposals to settle the Tribes' water rights claims to an environmental review process under the National

Environmental Policy Act (NEPA). The preliminary results of the NEPA analysis were made available on January 14 with the release of a draft Supplemental Environmental Impact Statement. The draft SEIS recommended a modified version of the Administration Proposal as the best alternative to resolve the Tribes' water rights with the least environmental impacts.

"Our proposal bears no resemblance to the massive ALP project that has been opposed by the environmental community for many decades. Gone is the irrigation component of the project, which called for much more water than the Animas River could support, and which would have brought with it serious water quality concerns. Gone is an oversized reservoir that would create a continuing incentive to divert more water from the Animas River than the river system can tolerate. What is left is a down-sized off-stream reservoir that satisfies the bulk of the Tribes' water rights and which stores a limited amount of unsubsidized municipal water for the growing communities in the Durango and Farmington areas. The balance of the Tribes' water rights would be secured through market purchases of water rights, an approach that many environmental groups have advocated.

"I particularly want to emphasize my concern that we honor our obligation to the Ute Tribes by carrying through on the commitments that were made in the 1988 settlement. In order to get this matter settled, the Tribes have made significant concessions in response to environmental concerns, and it is now time for us to reciprocate.

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"Justice Black once admonished, 'Great Nations, like great men, should keep their word.' The time has come to fulfill our trust responsibility to the Tribes. I am committed to follow through on this responsibility by working with the Congress to enact legislation in this session."

So that, in my view, provides the most articulate characterization of what we're trying to accomplish here. Basically, he intends to salvage and preserve the existing settlement.

We did have -- not a lot of, but we did have some comments last night questioning the validity of the Ute Tribes' water rights claims. It's a question that we feel we've answered. As part of the scoping process last year, we were requested to do a legal analysis of the validity of the Tribes' 1868 Water Rights Claims. We did that with the release of a letter by the Solicitor of the Department of the Interior on September 9th, 1999. And in that letter, the solicitor indicated that it is our legal position that the Utes do have valid 1868 priority rights.

We also view the settlement as being the quantification of those water rights claims. Therefore, that provides the parameters that we're trying to seek as we attempt to modify this settlement and addressing concerns about the larger ALP project. So that's our goal.

We think that that goal that I just set out and as put together in Secretary Babbitt's letter is a valid one, given our trust responsibility to the Tribe. We also view it as a proper position and a proper use of federal money to resolve these water rights claims for not only the benefits of the Tribe but for the benefits of non-Indian water users in the local area also.

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**Mr. Conner (con't)**

So the question now to us is: What is the best way to resolve those claims? And as indicated in the letter, we have an obligation to look at the Administration proposal, to analyze it under NEPA and to evaluate it alongside a range of other alternatives that could also possibly serve as a final settlement of the Ute claims.

We did that -- we initiated that process in January, 1999 in scoping meetings and in February, 1999, and within doing the analysis and putting together the environmental documents during the latter part of 1999.

And what we determined there is we looked at a range of ten alternatives, which also included some alternatives previously looked at in earlier environmental analysis, and as we all know, there's plenty of earlier environmental analysis on this project. Those all involved structural alternatives, including a much larger proposal for ALP. And we also looked at two nonstructural alternatives that were not involved in the construction of a new dam and reservoir.

Also we took that to an appraisal level analysis, where we looked at environmental impacts of those ten alternatives. We looked at the ability of those alternatives to satisfy purpose and need described in the environmental document, and basically that purpose and need is primarily the settlement, pending finalization to the Ute Tribes' Water Right Settlement.

We then, out of those ten alternatives, selected two in which we did considerable refinements on, defined them in more detail so that we could analyze them more closely for those same environmental impacts, and also for their ability to solve the purpose and need.

Basically, those two alternatives were looked at much closer: A refined version of the Administration proposal, which includes a downsized reservoir of 120,000 acre-feet enriched basins and off-stream reservoir.

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**Mr. Conner (con't)**

It also includes 70% of the water supply that will be allocated to the Ute Tribes for their uses, for their present and future uses. And I think it's critical to note that, because we are providing a water supply that is for the Ute Tribes' future uses. We think that's proper, that's the recognition of the Reserved Rights Doctrine, and everybody has to waive their water rights claims for all time, so we'd have to ensure that we provide for both their present and future needs.

That reservoir, because of its downsized nature, does not supply all the water contemplated in the 1980 settlement, so accordingly we've also proposed as part of that a water acquisition trust fund that the Ute Tribes could use at their discretion to acquire water to make up the balance of the water rights associated with the '88 settlement or to use delivery for delivery systems, et cetera. It's their choice.

The nonstructural alternative that we looked at a lot closer is kind of a variety of different ways of providing water to the Ute Tribes. And it's primarily made up of three elements. One is the reoperation of federal dam and reservoir facilities in the area. That's primarily Navajo Dam, which would be used to supply a significant amount of water for the Ute Tribes.

And also increasing the size of Lemon Dam to increase the additional water supply in that reservoir as a means to also provide water for the Ute Tribes.

And, finally, the balance of the water would be made up through a water acquisition program, a larger scale water acquisition program than what's in the Administration proposal because reoperation in a larger Lemon Dam would only provide approximately, I think, one-third of the water supply for the Ute Tribes relative to the '88 settlement.

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**Mr. Conner (con't)**

In the end, in this document that we released on January 14th, we have selected a preferred alternative, which is the modified version of the Administration proposal. We did so because we viewed that as the best alternative to finalize implementation of the settlement. There are impacts to the Administration proposal -- it is a water supply project -- and those impacts we've documented based on the analysis we've done as part of this environmental document. And I think people need to look closely at those impacts. They're significantly less than the larger ALP projects, but they're impacts nonetheless. And we've identified them and tried to also identify impact avoidance and mitigation efforts.

At the same time, we think that the Administration proposal best defines the ability to finalize a settlement and provide a certain water supply for the Ute Tribes, an assured water supply that we could use to settle their claims.

The nonstructural alternative we took a look at was we had concerns about its ability to meet the purpose and need, its ability to finalize the settlement. We documented those concerns as part of the environmental document. I think people should also look closely at that. And also we had concerns about the wetland impacts associated with the large-scale water acquisition and transfer program. And that's also identified in the document.

We thought it very important that we be as up front as possible as to why we, at this stage of the analysis, think that the modified version of the Administration proposal is the best alternative to document all the criteria which we've used, put it out there in a draft document so that people could respond to. And that's what we've done here.

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**Mr. Conner (con't)**

And so with that, I'll turn it back over to you-all. I appreciate the attendance tonight and taking out time from your schedules. Obviously we welcome your comments. We want to consider them as part of this process. It would be helpful, whether it's tonight or ultimately when you submit your written comments, that you're as specific as possible about the pros and cons of the analysis -- what you think is good, what you think is faulty in the document -- and force us to respond to those comments. And that would be very helpful to the process overall.

One last announcement: Previously we have indicated that the comment period would end on March 17th. We've got a request for an extension to that time frame, and we're going to go ahead and agree to a 30-day extension of the time period. So instead of March 17th, we're looking at an April 17th deadline for submission of comments. And accordingly, we'll push back our schedule on the release of the final Supplemental Environmental Impact Statement. So I think we're looking at the end of June for the final environmental document being available for release.

And with that, I appreciate the time you've given me here, and look forward to your comments.

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**Speaker: Mr. Richards**

Good evening. Again, my name is Howard Richards. I'm the Vice Chairman of the Southern Ute Indian Tribe, located on the Southern Ute Indian Reservation. I'm here as an elected leader of the people of the Southern Ute tribes. My purpose here is -- there's 1374 reasons why I'm here in front of the panel.

I have an obligation to look at the future of our people, and that being to build this reservoir, Alternative Number 4. I had the opportunity to sit in this same discussion last night and listen to some of the concerns that the rafting people had. I just want to jump back to a little history here. And my colleagues -- I have two tribal council members here also with me.

One has to look at our land issue, our land base. At one point in time, the whole state of Colorado belonged to the Ute Nation, and parts of Northern New Mexico, Farmington, Aztec. But because the white settlers coming and settling and finding gold in the San Juans, in the Rockies, they said hey, wait a minute. These Utes have too much land here. I don't think they need it. And over the years treaties were made with the Utes, as we have a treaty here today. There's a treaty obligation by the State of Colorado, by the federal government being Congress and the Southern Utes and the Ute Mountain Tribe.

The non-Indian community felt that the Utes at that time had too much land. So what happened? It's taken away, because we have no use for it. To go up ahead to the year 2000, this happened around 1800 on this land issue. Now we have water rights, senior water rights.

The same scenario is here before us today. You Utes have no use, you don't know what you're going to do with that water. We know what we want to do with it.

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**Mr. Richards (con't)**

I have to look at the future of the Southern Ute Indian Tribes. Water to us is life. We were here way before the non-Indian community, and we'll be here long after. We know what we want to do with our water. We have visions, we have dreams. Just like Martin Luther King had a dream. You folks dream, too.

Look at these treaties, broken treaties throughout history. Nothing has changed. We have an '88 Settlement Agreement that's in place, and where are we today, 12 years later? It's for the reason that the environmental community has put road blocks and created white tape for the Utes.

When I talk about the future of my tribe, the people that elect me, the people that I represent, I have to have a vision into the future. I have to look at the needs of those tribal members that are not born yet.

The rafting community are saying well, you're going to tear up this river. I mean, do I give that up for six days out of the year to satisfy your needs? I have a lifetime to look at the needs of our tribal people, and I sure as heck ain't gonna give that up at any price.

We settled under the '88 Settlement Agreement. We the Southern Ute tribe are still honoring that agreement. We have given up a lot. We've sacrificed somewhat our future as to what the first ALP design was. But the tribal council has approved this alternative for the structural part.

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**Mr. Richards (con't)**

1 | So I ask today the committee or the panel to take my words, analyze them. You have a difficult job before you after these hearings are done with. But our life is here, our life is being discussed here. Our future is being discussed. It is being determined already. Oh, we know what's in the best interest of the Utes. Maybe there's a bunch of Ute experts here, I don't know. But that's beside the point. I represent the membership to its tribal council, and that, panel and members of this hearing, that's the position of the Southern Ute Tribe. Let's get the doggone dam constructed, let us continue our life. Let us have dreams and let us do our own thing, not at the cost of giving up this project here for the benefit of a few.

FT-1            Comments noted.

We do need to look at this. The benefits of many outweigh the benefits of the few, and that's what I've heard. I heard that last week. And I'll say that today. You've got a hard job. From here you heard it, from the tribal speaker. I talk from my heart. The environmental community is talking from the pocket in regards to their alternative, Number 6, I believe.

I don't need your money at this point in time. I have my own money. If I want to go and buy water rights and buy people's land, you'd probably sell it to me anyway, but I'd probably buy it. But that doesn't guarantee me that your rights, your water rights, if you have any on that land or with that land, and those water rights that we purchased are going to be probably be junior anyway, so why should I deal with that?

That alternative has a lot of stuff that the panel will have to go back and review. There's more questions and more damage being done to the environment in regards to the wetlands issues. They're moving water. When you move water, you set yourself to the state regulations, the state law, the law of Colorado.

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**Mr. Richards (con't)**

With that, I want to close and reiterate that my position as the Vice Chairman of the Southern Ute Indian Tribe is the structural alternative. Thank you very much.

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**Speaker: Mr. Turney**

Thank you, Mr. Hearing Officer. My name is Tom Turney, I am the State Engineer for the State of New Mexico, I'm out of Santa Fe. It's certainly a pleasure to be out of Santa Fe. The legislature is in full swing, it's got 16 more hours, and it will run all night long. And I'm sure it's a night in their infinite wisdom that they're debating all sorts of controversial subjects.

The State of New Mexico has supported for many years an Animas-La Plata Project that would provide storage of Animas River flows to meet the needs of the water users in Northern New Mexico. The State of New Mexico has further supported implementation of the Colorado Ute Indian Water Rights Settlement of 1988.

The Draft Supplemental Environmental Impact Statement for the Animas-La Plata Project which was released last month envisions a regional water supply concept under which water could be provided from structural and nonstructural components of what the EIS has called Refined Alternative Number 4 and Refined Alternative Number 6.

The regional demands do not specifically identify a water use or a time line for the use. Examples of potential water demands and uses are included that could be developed within a time of 30 years or more. This concept of regional water supply involves interstate leasing of water. Unfortunately, the State of New Mexico cannot at this time embrace either interstate leasing or marketing water.

However, we do not view our position as an obstacle to the proceeding of implementation of Refined Alternative Number 4, the preferred alternative identified into Draft Supplemental EIS.

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Mr. Turney (con't)

There is a substantial need for water for future M&I needs in the area that can be supplied from the San Juan system water supply. Storage of available Animas River flows is necessary to maximize the supply that can be made available from the San Juan River System to meet these future needs.

Refined Alternative 4 appears to provide for implementation of the Colorado Ute Indian Water Right Settlement. The alternative also provides water for New Mexico communities in San Juan County. Also, it would include, as we had previously requested, a new pipeline to serve the Navajo Indian communities from Farmington to Shiprock with high quality water from the Animas River.

2 | We appreciate the inclusion of this replacement pipeline as a structural component of Refined Alternative 4. We are concerned, however, that no allocation of water is included in Refined Alternative 4 for the La Plata Conservancy District of New Mexico. In our February 3rd, 1999 comments on the Notice of Intent to prepare this draft Supplemental EIS, we requested that 780 acre feet of depletion be considered for a future M&I water supply for this area.

3 | The State of New Mexico urges that the record of decision select Refined Alternative 4, even though we have reservations concerning the very generalized but nonbinding uses of water in the State of New Mexico. If the future demand of water should mandate the concept of a regional water supply, it would suggest interstate policing or marketing. The state could evaluate the specifics of a proposal in light of the conditions at that future time.

4 | The State of New Mexico cannot support Refined Alternative Number 6. This alternative has many objectionable concepts, including minimizing the storage available to the Navajo Reservoir to meet future Indian and non-Indian demands in New Mexico.

FT-2 | Volume 1 of the FSEIS states that the Colorado Ute Tribes are supportive of the reallocation of 6,010 afy to the State of Colorado and entities in New Mexico. Although an allocation to the La Plata Conservancy District was not described in the Preferred Alternative, an allocation of 780 afy of depletion was made to the District in the cost allocation of project beneficiaries. Please refer to Volume 2, Attachment E, Designs and Estimates, Table C.

FT-3 | The support of the State of New Mexico for the ALP Project and its concerns relating to interstate leasing would be important to the implementation of the ALP Project. Attachment D, Volume 2 of the FSEIS has only attempted to briefly highlight the complicated nature of the various interstate stream compacts and the obstacles to be overcome. If a future regional water supply concept became a reality, the State of New Mexico would be involved in the implementation of the leasing of waters from the Ute Tribes to entities in New Mexico.

FT-4 | Comment noted.

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**Mr. Turney (con't)**

**4**  
(con't)

We are concerned about the effect of the operation on Navajo Reservoir set forth in Public Law 87483 as a result of a block of water that would flow into the reservoir from the acquisition and transfer of existing irrigation uses in the Pine River Basin in Colorado.

**5**

The draft environmental impact statement discussion of institutional constraints, including water law, interstate compacts and federal legislation is, to put it gently and kindly, noticeably deficient. Only in Attachment D, Volume 2, is there any discussion of issues that would need to be addressed under the Upper Colorado River Basin Compact, and the discussion here is very brief. The constraints of the La Plata River Interstate Compact between the State of New Mexico and the State of Colorado are simply not mentioned.

FT-5

Comment noted. The FSEIS has been revised (see Section 2.1.3).

These general comments I have made this evening will be supplemented by more detailed comments on specific items in the Draft EIS, which the New Mexico Interstate Stream Commission will submit at a later date. And we'll also be addressing in much more detail our concerns regarding the technical analysis that forms a part of the draft and environmental impact statement.

And thank you, Mr. Hearing officer, for letting me testify.

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**Speaker: Mr. Utton**

Good evening, I'm Orion Utton. I live at 102 Road 2800 in Aztec, New Mexico. And I studied the SEIS, Draft SEIS considerably, and especially in terms of how would it affect New Mexico.

I'm very disappointed at the extent that you have looked into the various alternatives and how you seem to have already made your mind up that Alternative 4 was going to be the one. And it's kind of disheartening to feel that you did this before you even completed your draft SEIS. The thing that really bothers me the most about your selection as a preferred alternative, Number 4, is that you still have the Ridges Basin there.

6

The Ridges Basin represents the reservoir that is offstream, but it also represents a reservoir that you have to pump water over 500 feet to get there. And this pumping would continue for years, years and years, as long as the project is alive. So you're committing tremendous amounts of energy just to do that.

It seems like that there's no real reason for the project storage to be in that location except that it's kind of nice for some people because they can sell some of the land around it for a considerable amount of money. The only real reason it was really picked in the first place is because it provided a site that you could pump the water on further and overhand the La Plata drainage. So I'm very disappointed in your selection of the preferred alternative.

7

Another point that really bothers me a bunch is the nonbinding uses that the Ute Indian Tribe had described in the SEIS. And the words nonbinding, to me it means that maybe they will do these things and maybe they won't. And I think this kind of comes to a matter of speculating with water. And it was mentioned last night that speculating with water is illegal. And I think this is what is happening -- that they had to hurry, and in a big rush find some uses, so that they're saying that we were using against Ridges Basin Reservoir, that it's a reservoir in the sky with no delivery systems.

FT-6

General Comment No. 3 discusses the rationale for the proposed Durango pumping plant and the location of the Ridges Basin reservoir.

FT-7

The range of future water uses included in the FSEIS was meant to satisfy NEPA compliance requirements to project future impacts to the extent feasible. The uses for project water that the Colorado Ute Tribes may elect to implement in the future will be subject to all federal environmental laws. The issue of speculative uses of water is addressed in General Comment No. 7.

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**Mr. Utton (con't)**

**8**

And looking at the delivery systems, it looks like that you could probably get by without the storage in that location. The delivery systems as I viewed them are a large sized pipe that would carry quite large amounts of water and would be pressurized and taken wherever they're needed. And it just looks like that it's just kind of a pipe dream that may not ever materialize. And I just don't think that that's what should happen.

FT-8

Our analysis indicates that water storage on the system is necessary, and that the volume of water that could be stored in the delivery system would not be sufficient to meet system requirements.

**9**

The thing that I would like to have happen is water storage, a water storage place in New Mexico. I would like more than anything that New Mexico would have their own storage, could benefit from the recreational uses of it, the people of New Mexico would have a chance to control that water. And I just feel like that's very much needed.

FT-9

In the process of evaluating alternatives, Reclamation reviewed a storage reservoir in New Mexico at Aztec as part of Alternative 8. This alternative was not selected for a number of environmental, engineering and cost concerns. Refer to Section 2.3.2 for a further discussion of the evaluation.

**10**

I also really feel like the best water that San Juan County could have would be the water from Navajo Dam, because there are less big large populated areas upstream of the Navajo Dam and less chances for pollution. The Animas River in the wintertime simply will be almost undrinkable. It will be so polluted with so much population upstream that it just won't be potable water.

FT-10

All discharges from population centers into the waters of Colorado and New Mexico must meet state water quality standards, and treatment of the discharges is required. The wintertime water quality in the Animas River would not be "undrinkable" as stated with the implementation of the water quality laws. Further, water treatment of M&I water would be conducted, irrespective of where the water is.

And I thank you for your time and I understand how hard a job that you have here tonight.

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**Speaker: Mr. Blessingame**

Thank you for coming to Farmington to chair over this meeting. I'm Charlie Blessingame, I live up in La Plata.

The other day I found an interesting article in the Farmington Daily Times, "Today in History." In 1937, a group of farmers and ranchers from New Mexico and Colorado met in Breen, Colorado, to try and build a much-needed water storage for La Plata. Since that time, hundreds of meetings have occurred over the years to accomplish that same purpose.

Today, as an irrigator on the La Plata, I'm supporting H.R. 3112 to settle the Ute Indian water right claims. This will protect my water rights from the Ute Indian water priority date of 1868.

I attended a Colorado River Water Users meeting in December of last year. Interior Secretary Bruce Babbitt addressed the group on matters concerning the Colorado River. Babbitt at this time said to the group it is time to build ALP. He said he wanted to see a water storage project resolved during his term in office.

Over the years, I've heard proponents to the project cry for the right to vote on ALP. The vote was held, and the people voted for the project. I also have heard the cry for alternatives, that Romer and Schoettler hearings were held.

After months of negotiations, the Animas- La Plata Light Proposal and the Animas River Citizens Coalition Proposal of setting aside \$110 million for the tribes to purchase land and water rights were chosen. After that, the Administration came up with ALP Ultralight.

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**Mr. Blessingame (con't)**

**11**

I agree with Interior Secretary Bruce Babbitt, it's time to build ALP. I support H.R. 3112, and I think the State Engineer's comments will probably be the reason that I agree on H.R. 3112, due to the matters concerning the La Plata Conservancy District. Thank you.

FT-11      Comments noted.

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**Speaker: Mr. Black**

My name is Michael Black. I live at 1939 County Road 203 in Durango.

There's something in Secretary Babbitt's statement I think needs clarification. He's mentioned that the Administration's proposal would provide unsubsidized M&I water; is that correct?

MR. CONNOR: Read this statement: "Unsubsidized municipal water for the growing communities in Durango and Farmington." Those are the allegations to the Animas-La Plata Water Conservancy District in the San Juan Bond Issue.

MR. BLACK: I don't think there's a limit, okay. I'd like to put -- the only use we have for water in Colorado is the City of Durango. In the hearing last night, the subsidized M&I water would not be affordable for the City of Durango, so now I'm certain.

I'm afraid the Bureau has grossly mischaracterized the alternatives put forward by the Animas River Citizens Coalition. With the past history of the Bureau in mind, an unbiased observer would have to conclude that the mischaracterization was a deliberate attempt to sabotage the examination alternatives and to make the Administration's proposal look better.

The Alternative presented by the Animas River Citizens Coalition in the Romer-Schoettler process was clearly titled a conceptual alternative. It needed more work. We were aware of that at the time. Yet the Bureau made no attempt to contact anyone who was involved in putting that Alternative together. I know, I was involved -- made no contact.

FT-12

In evaluating structural and non-structural components, and in developing alternatives, Reclamation reviewed the Citizen's Coalition alternative including using and/or modifying existing facilities in the project area to provide additional water for ALP. Reclamation considered reoperation of the McPhee and Vallecito reservoirs, and modifications to Lemon Reservoir. The rationale for this evaluation is discussed in Section 2.2 through 2.4 of the FSEIS. Reclamation also evaluated the scenarios of buying land and water rights, and either leaving the water on the land and/or transferring it to M&I usage. Reclamation did so on the basis of where the water and land is most likely to be available, and where it is most likely to be used. This analysis is also included in Section 2.5 of the FSEIS.

12

**Mr. Black (con't)**

And they made assumptions in fleshing out that alternative that are unwarranted. The Alternative had three parts. Look at existing federal water projects for opportunities of delivering water to the Ute tribes. There is extra water for the system. Look at conservation measures and system improvements which would free up water to be used by the tribe.

One quick example: Vallecito Reservoir must be lowered to practically half its capacity in the winter because the gates can't stand ice. Studies have shown that the \$3 million in patching the reservoir could be dramatically increased. This opportunity was ignored by the Bureau. There's other examples, many others.

The third component is development of land and water pumps to allow the tribes to purchase water rights and/or land -- and/or land, okay. You can purchase water rights separately without the land, or you can purchase land separately without the water rights, fulfill the quantities of water in the Settlement Act.

In addition, or inherent in that, some of the water rights could remain in the Animas River. The Utes have the rights to the water in the Animas as the project is built, and they also go to Court in 2005, so some water could remain. That wasn't examined.

In general, the Bureau has drastically mischaracterized the Alternative. You'll note that our alternative was an alternative to the entire Animas- La Plata project, not to the Administration's proposal. And it was designed to buy senior water rights from the tribes of the quantities of the Ute Indian Water Rights Settlement. Half of that water would be irrigation water. That's what our alternative proposed.

**12**  
(con't)

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**Mr. Black (con't)**

Now, if the tribes buy the water for irrigation, it has to be Animas-La Plata or the Ute Indian Settlement Act as proposed. That water will leave the land. It would continue to be irrigated. By converting all the irrigation water to M&I purposes, the Bureau has made a deliberate attempt to make our alternative look as bad as possible. I mean, it's clear to me that that was intentional. In fact, the Bureau concludes that by leaving the water on the land, there would be little or no environmental impact, so at least half of the water should be left on the land with no environmental impact. That wasn't addressed.

As far as the impact's conversion of remaining water from irrigation M&I goes, that's already occurred and is going to occur in the future. Whether it's done by the tribes or without the tribes, it's going to occur. It's occurring as we speak.

As Southwest Colorado goes from a rural to an urban area, water will be converted from agricultural to M&I purposes. Our proposal was designed to take advantage of that fact for the benefit of the tribes. Why shouldn't the tribes get the benefit?

By purchasing senior water rights for irrigation purposes, we hope that it would help stabilize agriculture in Southwest Colorado.

It matters not at all that the farmers of the future, our youth, were not included. But by increasing the agricultural base with the tribes, that would benefit nontribes and farmers. We believe that the tribes would be better stewards of the land, better stewards than turning it over to the plan developers, which is what was occurring in Southwest Colorado at the time.

**12**  
**(con't)**

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Black (con't)**

**12**  
(con't)

We hope it would be in the tribes' best interest to retain the rural character of Southwest Colorado by leaving the water on the land while reserving options in the future. But as things change and as growth occurs and as needs change, tribes would reserve the right, as all water right holders have, of converting that water when and where a need for such conversion might occur. Thank you.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Speaker: Ms. Kimbler**

Hi. My name is Susan Kimbler, I live up by Bakers Bridge in Durango. I have very many concerns with the preferred alternative, and although in the amount of time we have to speak we can't be as specific as we would like to be, I will cite one specific statement in the plan here that I find absolutely incredible.

The Refined Alternative 4, Recreation Impact Number 6, "Construction of Ridges Basin Reservoir and associated recreation facilities would result in a net gain of recreation user days in the basin and fill a perceived need for reservoir recreation in the area." And the significance of that is marked here as "B, beneficial."

How anyone could look at this and come up with the Ridges Basin Reservoir as a beneficial recreational alternative is totally beyond me. You're going to substitute a big shallow lake for a white water river. Quality there should have something to do with it.

And who is it that has the perceived need for reservoir recreation? I have to ask who that is that wants a reservoir right there? There are reservoirs -- and they're listed in here of all the reservoirs that are within 35 to 40 miles of Durango, but there's only one Animas River. And changing that and trading that for another reservoir is simply incredible that anyone could feel that that is beneficial. It is a minus sign to the extreme degree.

Another question that I have is that the construction of the pumping plant is going to be on the site of a former uranium mill, which will expose the land, the water, and the workers to toxic waste. This site has been precluded from development for commercial or residential purposes.

FT-13      Comments noted. The obligations of the U.S. Government to the Colorado Ute Tribes are the key drivers of the ALP Project.

FT-14      This issue is specifically addressed in Volume 1 of the FSEIS. The proposed Durango Pumping Plant is planned for an area which was formerly used for uranium mill tailings processing and is a Uranium Mill Tailings Remedial Action (UMTRA) site. Understanding this history of the site will allow for the proper planning to prevent any exposure of remnant contamination to the environment or construction workers. The contractor would be required to prepare and implement, if necessary, a contingency plan for treating the water removed during excavation in the event that groundwater contamination levels exceed anticipated limits. The planned pumping plant application for the property will actually serve to limit access and save breaking ground on a new "greenfield" site. In 1990, a Hydrogeochemical Site Characterization was performed on the site as part of obtaining a Restricted Use Permit from the Colorado Department of Health. No significant groundwater contamination was detected during the study and no associated problems are anticipated.

13

14

**Ms. Kimbler (con't)**

**14**  
**(con't)**

Has there been any investigation of the possible consequences of construction on that site, the water pumping plant that's going to be sending water who knows where? How many places do we have in the news right now where the government said oh, there's no exposure here, there's no danger here. The exposure is minimal, there's nothing wrong. And all of a sudden now there is.

And the actions that are having to be taken to mitigate this or to try to put together people's lives that have been destroyed, do we really want to get into that? Has anybody looked into that to the extent that they can say that this will not cause some harm?

**15**

The other -- another question that comes up here is the presence of existing man-made intrusions in the areas within Ridges Basin could release methane and hydrogen sulphide gas and impair the integrity of the dam. Now, that's stated in here. Hasn't an actual study been done on this? We went out to the Ridges Basin last night, and on the way out there, we smelled a hydrogen sulphide leak that we've never come across before. You know, has this been identified? If this could impair the integrity of the dam, this is something that needs to be looked into on a very technical basis.

FT-15

The issue of methane and hydrogen sulfide being released in the area of the proposed dam site is specifically addressed in Volume 1 of the FSEIS. It has been documented that the referenced gases are found to seep to the surface and that manmade pathways can act to accelerate this activity. There are currently several studies, including the 3M project, being conducted to better understand the gas leakage issue. Best engineering practices will be implemented for plugging possible pathways and constructing project facilities which would promote the reduction of adverse impacts.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Speaker: Mr. Swingle**

Good evening, I'm Jerry Swingle. I live in Durango. And as a lot of us have been observing lately, it kind of reminds me of what Yogi's famous for saying, among others, "It seems like deja vu all over again."

I want to reiterate one thing that I mentioned last evening, which is that this whole process began with repeated secret scoping meetings between the Interior and proponents of a structural alternative. And if certain congressional types can be believed, the fix is in and that there have been more secret meetings with Secretary Babbitt and others and that he's on Board and that this is an academic exercise.

**16**

As a member of a democratic society, I prefer to believe that we are following NEPA, and that's not true. But it sure is hard to believe. I'm going to reiterate that the DEI has ignored many scoping comments and questions that were raised a year ago, among those as has been mentioned, exactly where the reoperation of Navajo could fit into creative solutions to the problem that we're addressing tonight.

I appreciate the comments of the tribal leadership. From the environmental community's perspective, we think it's a real shame that 22 years ago when their federal reserve right was quantified and, in essence, firmed up in the Settlement Act that they weren't given the opportunities that we've outlined in Alternative 6.

At this point in time with a very modest infusion of federal dollars, they could have the water that they deserve, they could have a lot of economic development, and could be doing a lot of things with that water.

FT-16

The reoperation of Navajo Reservoir was a key factor in both the studies of San Juan/Animas River hydrology, and in formulating several of the alternatives. These alternatives are discussed in Section 2.3.2.

Mr. Swingle (con't)

17

The real shame is that they got roped into, that they got brought into what we consider to be a very deficient, a very wasteful, a very destructive project that pumps water up 500 feet to then provide the communities in New Mexico by letting it run back down into the river where it's flowed since time immemorial. And by the way, for 4 percent of the time when it's needed in dry years, one out of 25 years is why we're going to suck water out of a river, pump it up 25 feet with tremendous waste of natural resources, and then let it run back down. It's just mind boggling.

In any case, as you will remember, last evening in Durango I asked a question of the audience. I said 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 Native American neighbors. By my gauge, or my estimate, roughly 80 percent of that audience, which was predominantly opposed to this project, stood in assent to that question. I take them at their word. There were questions for each isolated speakers, but I honestly believe that the environmental community feels that we have an obligation that needs to be met and that this preferred alternative is the second or third stupidest, most wasteful, most damaging way to get there. I think that's what motivated a lot of the speakers last evening.

With regards to the hypothetical future of water applications -- nonbinding scenarios if you prefer -- as I said last night, how can you possibly do a good assessment on all -- on applications of that water that are so hypothetical that they clearly are speculative, and they even have no grasp of the overall -- not economic, but environmental impact.

We heard from Dr. Dale Lehman last night, who teaches economics, is Professor of Economics, that past project configurations have wasted 70 to 75 percent of every taxpayer dollar, and his estimate is that this preferred alternative will be as bad or worse.

FT-17

Reclamation's analysis shows that storage of water is required in any of the feasible alternatives in order to provide the reliability of water supply for M&I needs. Ridges Basin Reservoir is one method of providing that storage. Refer to General Comment No. 3 for a further discussion on the rationale for pumping water uphill.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Swingle (con't)**

**18**

Again, I'm going to reiterate that the cost benefit analysis is missing here. It should not be missing. We've got a lot of intuitive reasons why it probably is, but it would be good if that were returned to being part of this assessment, this evaluation.

FT-18

Refer to General Comment No. 1 for a statement of Reclamation's position on preparation of a benefit-cost analysis for the ALP Project.

I also asked what the cost to federal taxpayers would be if the precedent of this project were extended to other funded projects. What if the federal government agreed to finance future M&I projects? What if it picks up all cost overruns? What if it picks up the OM&R indefinitely while the primary beneficiary decides how to use the water? And what if it agrees to build more pumped water projects only to have to release the water back downstream in order for it to be put to true beneficial use?

It kind of reminds me of a scene from The Graduate with Dustin Hoffman. Benjamin is the character and announces to his parents he's going to marry his girlfriend Elaine, who he really doesn't know at this point in time. And his parents say, "Well, Benjamin, that's great. Have you talked to her parents?"

"Well, no, I haven't talked to her parents." "Well, have you talked to Elaine?" "Well, no, I haven't really broached this with Elaine." And the response is, "Benjamin, this idea sounds half-baked." And his response is, "Oh, no, I've thought about it a lot. It's fully baked."

**19**

This EIS indicates to me that the structural alternative, while it claims to be fully baked, to many of us it is still clearly half-baked. Thank you.

FT-19

Comments noted.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Speaker: Mr. Scott**

Jack Scott, Post Office Box 1149, Aztec, New Mexico. I am an Aztec City Commissioner. I would like to comment on Mr. Connor's reading of Secretary Babbitt's letter, that I find that extremely offensive.

I see it as intimidation to the group here that's speaking, and I feel that it is very political. Like he, in fact, says, this basically is come hell or high water, we're going to build this project, and it's going to be introduced in this session. Especially knowing that he has been involved with many of the proponents and congressmen and senators involved in this project, and they come out of these meetings with flat statements of, "We are going to ignore the environmental aspects of this and all the environmental work has been done." I find that extremely offensive.

In the issue, Identification and Research Section No. 9 of the Attachment 1, Part 2, Plan of Approach to Prepare the Supplemental EIS to the Final Supplement to the FES for the Animas-La Plata project, is the statement: "It is in the interest of all parties to this interest that any issues or problems be identified at the lowest level of decision making and in the most expeditious manner possible. Unresolved issues can lead to misdirection of efforts and delays in the preparation of the SEIS. On the basis of initial discussions with the parties, there is at least one outstanding issue that will require resolution and direction.

"Validity of Senior Indian Water Rights: Comments have been made challenging the validity of the Senior Ute Water Rights. This issue could potentially affect the purposes and needs of the proposed action."

Purpose and need. Purpose and need is very important in the EIS. That's what it's all based on, that's the only reason for doing one. If you don't have purpose and needs of the water, there's no reason to do an EIS. The questions asked in this document do not address the true purpose and need, and the purpose and needs were not properly framed.

FT-20 Please refer to General Comment No. 14 for a discussion of the water rights claims of the Colorado Ute Tribes.

Mr. Scott (con't)

You have a settlement agreement that is based basically on a state consent decree. Congress does not have the right to quantify or qualify Ute rights. It's that State consent decree. And in that consent decree, there are two paragraphs that are identical. And both of those say that if the Animas-La Plata is not built as it was proposed at the time, that there is no settlement on the Animals or the La Plata rivers. And we go back to Square One and we quantify and we qualify, and we come up with a true basis as to quantification and qualification of the Ute rights.

20  
(con't)

It's a judicial proceeding, a state judicial proceeding. And Congress is legislative. They can't legislate quantification or qualification. You can start out asking the wrong question, and you're not going to end up with the right answers under NEPA. And this has occurred.

The validity question of Ute rights was never raised after the first mention in the Plan of Approach. The whole concept basis of Ute water rights is bogus under this Settlement Agreement. It has not been investigated or studied and is based solely on deceit and follows the concept of to supply political pork to people. And this is perpetuated by this document before us.

21

What are the true and valid rights and claims of the Ute tribes? Why were not the Navajo rights claims a part of these documents, and why is not the Shiprock pipeline a part and portion of the Navajo Water Rights Settlement now being negotiated between the State Engineer and the tribe? There's no mention of this.

FT-21

The Navajo Nation Municipal Pipeline, which you refer to as the "Shiprock pipeline", would receive water conveyed to the Navajo Nation as part of the ALP Project under the provisions of the Settlement Act.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

Mr. Scott (con't)

21  
(con't)

This expenditure and pipeline should be a part of that settlement instead of becoming just another federal pipeline, or another federal pork barrel handed out to the Animas-La Plata pork that further adds to the confusion and more payments in the future to settlement of larger issues facing the San Juan Basin. And these issues are the additional future Indian water rights settlements in New Mexico for both the Navajos and the Ute Mountain Utes, entirely ignored in this document and blown off in the document since there is no qualified or quantified Navajo claim.

Lest people forget, there are no settlements of Ute Mountain/Ute tribes in New Mexico, and they have a sizeable area in New Mexico.

22

Alternative development, the same scenarios that are analyzed, it is very important to make sure that we don't have alternatives that are not feasible, that are way out there as are the Administration's alternatives in their various forms. The range of alternatives have to be within the range of feasibility.

I'm an elected official, and I think they announced earlier on that elected officials have the right to speak.

The range of alternatives have to be within the range of feasibility. The Administration's proposal in various forms are nonfeasible. They are just expenditures of money to promote economic furtherance in the regions for pork barrel payments. They are strawmen.

23

Direct payment to settle the Indians' rights would be more cost effective by cutting out the middlemen and giving the money directly to the Indians.

FT-22

A full range of alternatives was considered, both those that proved under evaluation to be feasible and those that did not, as part of the NEPA compliance process. These are included in Section 2.3.2.

FT-23

The Colorado Ute Tribes have gone on record as desiring an alternative which provides "wet water" to meet the Settlement Act obligations, and which would allow the Tribes to develop their economies. An alternative which provides only money to enable the Tribes to purchase land and water is not acceptable to their overall goals, and would create significant social, economic and environmental impacts to the project area.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

Mr. Scott (con't)

24

The no-action alternative is a very valid alternative and it needs to get the attention and respect it deserves. Go to Court, determine the claims, and deal with them directly. Take into account the more than a hundred thousand acre-feet of water rights held by the Southern Utes on the Pine River and other rivers and take into account their storage rights and various reservoirs. Release and give the water rights now held by the Interior to the M&I users, the municipalities that are stated in this project.

FT-24 Comment noted. The discussion of the No-Action Alternative, Alternative 10, has been expanded in the FSEIS. Please refer to Section 2.3.2.

Again, I repeat: There is not a settlement on the Animas or La Plata rivers, the state consent decree in this basis, the 1998 settlement. How can there be a correlation between the information presented here in terms of the effect and the final decision? There is already, as pointed out in the letter, contradiction and disconnect between the analysis of the effects of this action and the final decision.

FT-25 Comments noted.

25

It is apparent to everyone that there will be no correlation between the study and Secretary Babbitt's decision. He is already selling and promoting that Campbell begin his project and meet with his project proponents to politically push this Animas-La Plata modified Administration version, or whatever it's called, you know, by ignoring the National Environmental Policy Act and these environmental concerns.

Dirty politics, as usual, will result in more pork barrel expenditures for the sake of buying votes for senators and congressmen wanting to send home more money to buy more votes. One would expect that with three tries by the Bureau to get it right, that they could at least come up with a better document. But that would be expecting too much. So thus we have a bogus supplement to the final EIS. And "final" in the dictionary is defined as "not to be altered or undone." At least choose a different name for the document when you finalize it.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Scott (con't)**

**25**  
**(con't)**

Animas-La Plata in any reincarnation should have died ten years ago. The project office, the Bureau, should be closed in Durango, and especially if this is the best work product that they can produce. Thank you.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Speaker: Mr. Red, Sr.**

Good evening. My name is Byron Red, Senior. I'm a member of the Southern Ute Indian Tribe, and I serve in the capacity of the Southern Ute Tribal Council Representative of our tribe of the Southern Utes.

I'd like to say that being a natural-born Native American from this beautiful Southwest Colorado portion of this state here that from our ancestors, my ancestors, some of the folks that are here from the Ute Mountain and also to our relations that are of the Northern Ute, I'd like to welcome them in my language.

I'd like to mention and give thanks to be able to be here this evening and have the opportunity to speak on behalf of those mentioned, 1300, and portions of the Ute Mountain that are here tonight, representatives.

I'd like to comment on the EIS draft as we submit it for our view. I'd like to say that the structural recommendation that has come from the draft itself speaks of many years, many years of hard work that has brought us to where we're at today, this evening. And it speaks well for itself.

FT-26      Comments noted.

26

And I'd also like to comment on the idea of the alternates, of the proponents. The idea of giving the tribe monies, dollars to go back and to buy their own lands. Once again, those lands that were sold at that time for fifty cents, a dollar, two dollars an acre and having to buy back our tribal properties at figures that reach into the thousands of dollars and to receive junior rights and these lands be put into a fee status.

One day I think we're all going to be able to sit here and you're going to have to sit here and you're going to have to look back and to realize what has happened today. And I hope that when you do that, that you think about what you may have done, what you're going to say.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Mr. Red, Sr. (con't)**

Last night we had the opportunity to sit, and we were going to speak. But at that time, I felt it would be appropriate to see what was the atmosphere that we're testing from this water here. And I'm sorry to say that what I saw there was -- you know, we talk about respect. We talk about yes, we respect the Indians, we respect the moral obligations that we have towards them. But, we say, I think you only need to hear it, listen to what you're saying. Yes, we wanted to do this, but -- and again, it sort of tends to sound like what you say, the old 78s, 45s, the long-play, the scratched disk. It says "but."

I mean, this is what we are teaching, we are teaching the children. You have an obligation. But. We are instilling this into our kids.

I also found it somewhat very offensive to the fact that the individuals that have been making these statements -- maybe they realize, maybe they don't realize what they're saying. But individuals, to take a bow before a crowd, that in my eyes, it represents no respect. To me, it reflects the idea of "I."

The respect -- I think we have to really think about that, folks. And before the evening was out, those individuals that took that bow, the actors as you would call them, they had left. Their statement had been said, they had their glory for that period of time.

But I think, folks, you have to understand the American Indian Tribes -- the Southern Ute and the Ute Mountains and all the rest of our Indian tribes, our relations, our friends, the Navajos and the Jicarillas, and the rest of the tribes -- that we tried, we worked hard to try to protect their sovereign nations and our beliefs, our tradition and our culture. That's why I have to ask each time when I give thanks each day to our elders and to our grandparents, for those traders that were given to for those days, to begin the new date. And we have to think of the survivorship of our tribe.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Mr. Red, Sr. (con't)**

The Ute people haven't survived -- they haven't survived for just this period of time. They survived for many hundreds of years. And without this water, you're cutting their life. Individual peoples should not talk and represent Indian people when you have these concerns. Indian people have their own minds, they have their own say as to where they want to go. And I have a sense of feeling that maybe some of you folks are feeling some -- you're feeling something within yourself, within your shoulders, within your heart. You're feeling a little distressed.

I would like to even put that into a sense and look at a picture, if you close your eyes and look at it. Think about how Indian people have been living for these hundreds and thousands of years, having to deal with the suppressed situation that is placed upon them.

You know, I ask for forgiveness from my elders to speak like this, to speak in a way that has been taught to me not to say it. But yet I think there comes a time when something like this has to be said. You know, we talk about all the good things that this river provides. And for me to allow -- for I to allow what we do to allow the enjoyment of kayakers to be able to take advantage of that and to put a value to that towards what our Indian people have to go through, there's no value to that. Everything is obvious and is clear.

You know, there is a smoke screen that sits in front of us here. And all the opponents have provided a smoke screen here. But I look deep, we look deep into our prayers and in the ways of our beliefs and we look past that smoke screen and we look at what's the real purpose behind this. This is why we meet, why we have our meetings like this. We always begin it in a good way, that those people that are out there will understand where we're coming from. And we ask for the creator to come into you folks' heart, to make them realize and understand what it is that you're doing.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Mr. Red, Sr. (con't)**

You know, we talk about these different alternatives. We want to put water over here to satisfy Utes, these claims. I think we have to remember, those pacts have already been set. When we disturb that, it causes more frustrations for everybody. These are some of the things that I see.

And I can appreciate how everybody feels about this, but I also have to say that, you know, when we talk about environmentalists, we have to kind of think back and look back. When you see it on your TV screens, when you see this one great Indian leader stand above the freeways and he has this one teardrop in his eye, those were the environmentalists. We are the environmentalists.

I was fortunate enough to go to D.C. and walk the halls of Congress on this thing during my short term with this council, to go back to Washington and see how some of the respective Congress people, the mature Congress people, when we sat and we met there and we discussed the idea of Greentree came up, the environmental programs, to see the respective gentlemen of the Congress bring their grandchildren in, bring them in, introduce them to this environmental group to teach them how to run against our cause, this proposed storage project. He's teaching these kids how to do this.

In some sense, this has become a second generation water war. This is something that has opened my eyes, and I have to leave you folks with a way to assure you that the stored water is going to be taken care of to satisfy the needs of not one but many.

And don't be afraid, we're going to take care of the water in a well way. We have plans of what to do with it. But I don't think that we have to jump up and waive our hands and shout and say we're going to do this, we're going to do that. That's not how I understand how our Indian people are.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Mr. Red, Sr. (con't)**

You know, you see a lot of us that are reserved. We sit quietly and we watch. There's a big difference in how we are, and I think maybe we're not quite understanding.

But I just wish to bring these words that I have this evening, and I'd like to thank all the past leaders, all the proponents, all the past chairmen and council people, all the land owners that had to go through this but its worn them to the point where they're not here today. Some of those people have gone on to the great spirit world. So have some of the opponents.

But I have a good sense, and I have good feelings for this, that this va -- this is what we call water, va -- is going to be taken care of in a good way. But with that, I wish you and your families a well evening, and that when your travels, that your family and your children and school and some of you elders and some of you folks that may be in the hospital or in a place where we don't want to see them, wish them well.

You know, and I think that goes back to how we kind of see things. Yes, we have a problem of how you speak about us, but yet, you know, I catch myself now saying this, that we still offer that way to you, in a good way. So I'd ask that, you know, before we start saying something, that you really think about what you're going to say. Because I'm listening -- my elders, your elders are listening to what you're saying.

This is not something to play around with. As a matter of fact, you're playing with our lives here. If there was hundreds of thousands of us, then maybe that would be a different issue, but this is the issue. We are who we are, and how many we are now, today. But I just again wish to thank you very much for this opportunity to say something and wish you-all well. Thank you.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Speaker: Mr. Trujillo**

Good evening. My name is Leonard Trujillo, I'm a life-long resident of San Juan County. I was born and raised over in Navajo Dam for a long time, just three miles down below it. I've seen the San Juan River almost dry, I've seen Animas-La Plata even dryer. And my reason for being here is that I take issue with the democratic process, okay?

Back in 1989, the Daily Times put out a pretty extensive report representing both sides of this project. I, along with 65 percent of the San Juan County residents, voted for this project. People, we voted for a nice big enchilada. You've scaled this down do a Chalupa, if you get the drift.

Getting back to the democratic process, I'm familiar with it. I was a Board member for 18 years with Bloomfield Schools. We had bond issues, we looked at both sides of it, we gave an opportunity for people to represent the pros and cons of it, we had an election, we got in a ballot box, they voted their conscience, they gave it their best shot, and we did the project.

We didn't go back to the losing side and let them water it down and get their impact. When we said we're going to build ten classrooms, we didn't go back and say well, will you be satisfied with five, ten, or three, or smaller or whatnot? We just built the project.

Now, this is enough time. We can't let this tail wag the dog. The people that are against it will always be against it. The Hammond project, there was people that were against it. I remember my good friend Roy Young, Governor Bolack, Sullivan, Charlie Taylor -- all of those people -- there was opposition to it.

They built that project, and now everybody, even the opponents, are enjoying the fruits of somebody's labor that built the project.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Trujillo (con't)**

Navajo Dam, there was people who opposed it also. Now everybody thinks that instead of building this project, we ought to go steal some water from that. You forget the concept of reservoirs, people -- somebody is not thinking here.

You catch this water during the Spring runoff, and you hold it. And then when the river's almost dry, you let it loose. I can't find how it's so difficult to understand that. The same thing will happen over there. Now I understand there's cost, but look at the cost of this project if you build it today with what you could have built it then. And just us mickey-mousing around, you just lost a lot of money. Heck, why worry about the cost? We're losing plenty to Kosovo -- bombs. And here we're going to be without water.

This summer I challenge everybody to look down there at that Animas and see just how much water there is down there. We need this project. I suggest you people have bulldozers over there tomorrow.

The people from this county mandated you to build it. Why are we dicking around here? Excuse my language, but that's just the way it is, you know? You can't worry about satisfying everybody. This whole project, including the rights, the Indian rights, anything, was set up -- the cost, everything else.

That was the time for these people to get on board and give their opinion and vote their conscience. They had the opportunity. After -- in a democratic society, you can shut your mouth and go home. Thank you.

FT-27      Comments noted.

27

**Speaker: Mr. Cone**

No federal funds should be expended on any ALP alternative which treats and creates a special class of people exempt from state and federal laws. What we have here is not an Indian only project. The final supplement should address the fact that any attempts to negotiate amendments to the Colorado Ute Indian Water Rights Settlement Agreement must be open to the public and all affected parties.

FT-28 Refer to General Comment No. 14 for a discussion of the water rights claims of the Colorado Ute Tribes.

The closed door negotiation meetings being held now by now Deputy Secretary Hayes and others in the Administration of the Interior with the Ute tribal government officials and non-Indian ALP promoters are illegal and inappropriate. That the Ute tribes with their trustee are being exclusively allowed to oversee the assessment of these alternatives to a structural project concept to which they are publicly and irretrievably committed is an inexcusable perversion of the National Environmental Policy Act.

28

Please explain how it was determined that the Utes could conduct an objective, empirical, and dispassionate analysis of a project that directly benefits them. The Ute tribes' public pledge to have nothing less than an original structural alternative confirms their inability to develop a fair and uncompromised product. But the Administration and the Congress needs to know that the tribal need for more water is a fantasy created to build a massive water project for the speculative interest of developers with tribal leaders playing their roles as front men.

This nation's trust responsibility to provide water to the tribes does not include building golf courses, dude ranches, power plants, and casinos. It does not include buyouts, payoffs, or open-ended development funds. And it most certainly does not warrant the abandonment of our executive's primary charge, the enforcement of the country's federal statutes.

**Mr. Cone (con't)**

The Dolores, the Pine, the Florida, the Towaoc Canal -- it's no secret that the Utes are already awash in water from existing federal projects. Together, these two relatively small Colorado tribes already control upwards of 150,000 acre-feet of water, representing potential annual income of \$150 million if they were permitted to lease downstream.

The premise of the stated purpose for the project is not supported in the current Draft EIS. No-one will explain how the original settlement quantities were fixed. The technical basis for awarding such large quantities of water to the Colorado Ute tribe, if it exists at all, is being concealed by the Department of Interior and the State of Colorado.

This refusal of the federal and state governments to honor requests for the Keller-Bliesner report and the W.W. Wheeler report is contrary to the Freedom of Information Act and Colorado Open Records laws. One way or another, your supplement should provide factual answers to a very basic question, the response to which is the whole basis of the project.

The question is simple, a very simple one. What factual or technical information forms the basis of the settlement amounts? To date, this remains your best kept secret. That the Utes' entitlements have not been defined and information necessary to accurately assess the Tribe's reserve doctrine rights is being unlawfully withheld.

Men of integrity would long ago have shown the basis for these Tribal claims. But all we have instead is a stone wall of silence and the obvious message that the settlement agreement is and always has been a fraud. Your efforts to secretly and selectively amend the agreement to the exclusion of bona fide stakeholders is most objectionable.

**28**  
(con't)

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Cone (con't)**

**28**  
(con't)

At this time there is an absolute necessity for a legal finding of fact as to the extent and priority of the Utes' legitimate water rights. But the merit of the Tribal plans to entitlements of the Animas and La Plata river water have not, and evidently cannot, be demonstrated. So the years of threats, of unquantified water claims lawsuits, should be directly confronted and dispelled by final action.

**29**

This will be most easily initiated with an honest assessment of the no-action Alternative Number 10. I must say your draft treatment of Alternative 10 is suspiciously inadequate. If the projection of hypothetical nonbinding scenarios for tribal water use are so easily accomplished, then certainly it is possible to prevent potential outcomes of open negotiation or litigation.

Announcements of the no-action alternative must include a realistic assessment of the likely cost of litigating the Ute Tribes' claims and the potential outcomes, both beneficial and detrimental, of such action -- not only for the federal taxpayer, but for all affected parties.

In the end, litigation as a means to determine the legitimacy of the Tribal claims may be the most honest and inexpensive way to resolve the issue of ALP.

FT-29

Comment noted. The discussion of the No-Action Alternative, Alternative 10, has been expanded in the FSEIS. Please see Section 2.3.2.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Speaker: Mr. Weston**

My name is Carl Weston. I live at Bondad on the Animas River, address is 3905 Highway 550, Durango.

30

I would like to address a major oversight or omission I see with the supplemental draft. Where is the implied reservation of water on the Animas for the purpose for which the San Juan National Forest was established? Why is the implied reservation principle not just as valid for the forest as it is for the Ute Reservation?

The Forest Service is currently legally processing, I guess is the word -- legally processing the reserved implied rights for the forest. And the way this is resolved is going to affect -- has the potential to affect all of the alternatives listed. Our national -- why are non-Indian M&I water rights being accorded the same priority as the Indian allocation? Are National Forest implied water rights not superior to those non-Indian rights?

31

I have here a quote I'd like to read, and it came from the regulatory -- the Chief of the Regulatory Office of the Corps of Engineers in Grand Junction, Mr. Grady McMiller. And it was sent back in October of '96 to Dave Ritter, EPA Region 8. And it was essentially the Bureau -- I mean the Corps of Engineers' evaluation of mitigation requirements. And those mitigation requirements, while maybe reduced to the same scale the project has been reduced, still exist.

The mitigation requirements for the ALP are enormous, requiring considerable monitoring. The mitigation for this project must be appropriate to the scope and degree of the environmental impacts and practicable. Typically, the mitigation to ensure compliance with the guidelines cannot be reasonably implemented or enforced and the proposed work should not proceed.

FT-30

The U.S. Forest Service (Service) is entitled to assert implied reserved rights connected with the establishment of the San Juan National Forest by reservation of those lands for the public domain. The water rights obtainable by the Service are almost completely non-consumptive water rights associated with the Service's principal purposes of protecting and enhancing conditions of flow in the stream and timber production. These non-consumptive water rights merely insure that the water flowing through the forest remains permanently available at the forest boundary. Because all of the points of diversion and use associated with the ALP Project and/or the Colorado Ute Indian Water Rights Settlement are downstream or below the national forest boundary, there is no possible conflict between the two. If the Service is ever awarded in-stream flow water rights, it will only serve to protect the Animas River supplies upon which the Tribes' reserve water rights will depend. Because the Service's water rights are non-consumptive by nature, there is no inherent conflict.

FT-31

The potential environmental impacts and their mitigation is discussed in Section 3.2.1 of the FSEIS, while the commitments of Reclamation to implement environmental mitigation is included in Section 5.4 of the FSEIS.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Weston (con't)**

**31**  
**(con't)**

Many aspects of the mitigation constitute only monitoring of adverse effects. Granted, monitoring is important. But does the Bureau of Reclamation accept responsibility for actually mitigating for adverse effects if the monitoring reveals problems? Practical mitigation beyond the monitoring part of it is not identified for any significant adverse effects, especially on water quality.

**32**

And at this point I would like to address water quality. The stretch of the Animas River from Ridges Basin south to the New Mexico line is the only stretch of the Animas River that is not under a total TMDL -- it's the total maximum load, daily load of pollutants.

Until that TMDL for that section of the river is put into the program, the quality of water that goes to New Mexico, however it comes down, either in bursts or is simply left in the river, is compromised by oil and gas activities on the drainages, the drain into the west side of the Animas. There's enormous amounts of erodible soil, and they contain selenium. And selenium has been a consideration and a problem with the water quality from the very beginning of the project.

So water quality has always been my major concern, and I always thought that the Ridges Basin plan would trash out the Animas River quality. And finally, in the fourth attempt of analysis, you've admitted it. You said that the damage to the fishery is unmitigable.

**33**

Now, I've lived there 33 years on the Animas. I like living there, and I like living on the Navajo Reservation. But if this is an Indian project, why isn't the Ridges Basin being turned over to the Ute Tribe? I trust the Ute Tribe a whole lot more than I do those people who have control over non-Indian M&I water. Thank you.

FT-32

The considerations raised concerning water quality in the Animas River upstream of the Colorado/New Mexico state line are addressed in the FSEIS. For more detail, please refer to Technical Appendix 3. The water quality analysis is based upon a vast amount of historical water quality data. All assumptions of the analysis are included and Reclamation believes that the conclusions are supported by the data reviewed.

FT-33

Comments noted.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Speaker: Ms. Johnson**

34

Before I read what I prepared, I would like to offer to Mr. Connor and Mr. Babbitt that if indeed he is offering a compromise by offering Alternative 4, I as an opponent to this project, would sleep much easier if he would also offer the authorization for the full Animas-La Plata Project, the part where they pump the water up and over the ridge, over to the La Plata Basin.

And if indeed he offers that as a compromise, then he must also answer, then, why Ridges Basin? Why put the reservoir there? Why is the reservoir going to be in a location where the water must be pumped, as opposed to a gravity flow down. And that would be my response to that letter. And I would see that as a step towards a true compromise to the rest of those two issues.

In this period when major water projects are being questioned, I am perplexed that the Clinton Administration represented by Bruce Babbitt and the Department of the Interior would be supporting the Animas-La Plata project as it is presented in the latest DSEIS. It was my hope that the environmental president and his hopefully environmental administration would have questioned the building of the project to benefit a few at the expense of the environment and the general quality of life for the majority.

There are many issues that one could challenge in this proposal. I would like to highlight the size of the project in relation to the purposes of the project.

35

The question of meeting Ute Indian water obligations was never a reason for building the original Animas-La Plata. That was proposed over 30 years ago. But with declining support for the project, proponents needed an issue that would sell this project. It was only then – that the issue of meeting Ute obligations became a reason for building the reservoir. The amount of water due the Ute Mountain Tribes and the Southern Ute Tribes is under question and needs to be addressed and settled in a court of law.

FT-34 Several locations for storage reservoirs on or near the Animas River were evaluated in Section 2.4 of the FSEIS, and the one that met the project purpose best with the least environmental impact was Ridges Basin. Please refer to General Comment No. 3 for a discussion of the proposed pumping plan and its rationale.

FT-35 Comments noted. The project cost projections are discussed in General Comment No. 2.

**Ms. Johnson (con't)**

If the courts determine that the Ute tribes would get water, the federal government should fulfill this obligation. If the obligation of the tribes must be met by impounding water, the reservoirs should be kept to the size needed only to meet the obligation and should not be placed ever to the basin.

**35**  
(con't)

The federal government should not be building a project that supplies needed municipal and industrial water at taxpayers' expense to the municipalities located along the river. The federal government should not be subsidizing golf courses, recreational lakes and building developers by providing low-cost water.

As a New Mexico citizen, I strongly urge the Congressional representatives and the San Juan Water Commission to pull its support from the Animas-La Plata. Again, the premise of this project is flawed. New Mexico water should be stored in New Mexico, not lost to evaporation in a low, shallow reservoir in Colorado.

**36**

Many unanswered questions in the DSEIS concerning storing and delivering New Mexico water and New Mexico repayment and operating of maintenance obligations would be resolved by storing the state's water in the state.

The BLR must show a need for the municipal and industrial project, and it failed to do so. To pump the water up Ridges Basin, let it evaporate, let the few who could afford to jet-ski around and then release the water back down the hill is beyond a reasonable alternative. Thank you.

FT-36

Reclamation reviewed several alternatives for storing water, including a reservoir at Aztec, New Mexico, and the increased use of the Navajo Reservoir. These are discussed in Section 2.4 of the FSEIS. The overall best location for storing water to meet the needs of the Colorado Ute Tribes was determined to be in Colorado, which led to the location at Ridges Basin as part of the Preferred Alternative.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Speaker: Mr. Decker**

I am James C. Decker. I live at 220 Halto Via Circle in Durango, Colorado. If I'd known you would be there until 11:00 last night, I wouldn't have come down here. But thanks for the opportunity.

**37**

This is my third statement in public hearings on the Animas-La Plata project in Durango. The first was in 1979, the second in 1996. In addition, I participated in the Romer-Schoettler negotiation to develop the non-structural consensual alternative, which the current Draft Supplemental Environment claims as Alternative 6.

Since the proponents of the structural alternative unilaterally abandoned the Romer-Schoettler process, I no longer feel obligated to support the non-structural alternative, which as I mentioned was only conceptual in form. Instead, I support and urge the Administration to adopt Alternative 10, the no-action alternative.

The Current Draft Supplemental Environmental statement says the no-action alternative is fatally flawed because it does not meet the purpose of the needs of the project. By that standard, all the alternatives and configurations of the Animas-La Plata project are fatally flawed.

Is there a project that's ever been designed that does not violate some aspect of environmental law, order law, or Bureau of Reclamation regulation?

It is said by the proponents of the structural Animas-La Plata that no action would result in the breach of a moral obligation to the Tribes.

FT-37

Comments noted. Further responses to issues concerning the No-Action Alternative and future water uses may be found in Section 2.3.2 of the FSEIS.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Mr. Decker (con't)**

How are the Ute Tribes injured? If no action is taken, they still retain the same rights they had prior to the Settlement Act, and if these rights are good, they are good in perpetuity. Have they lost time in achieving their objectives? We are told that they have been waiting for the water since 1868, yet unlike the Navajos, they cannot specify in this Administration Preferred Alternative the purposes and needs for the portion of the project.

Instead, only nonbinding scenarios are offered. Nonbinding alternatives do not add up to the purpose of the needs required of environmental law or the appropriations doctrine incorporated in federal interstate compacts with the law of the western states. Water must not be diverted except for beneficial use. A reservoir without end use is a storage without beneficial use. And if end uses are uncertain, cost benefit analysis would appear to be impossible. Nonbinding scenarios can only beget nonbinding benefits.

The natural world should not be violated needlessly. Native American traditions incorporate that principle. How, then, can the Tribes justify a reservoir without identifying the needs of the water?

The fact is there is no purpose and need for M&I water that can't be supplied from other sources in the region. Given that, it is for the Cassandras who wrote the evaluation of the no-action alternative to explain why they think that the region will be left with uncertainty, litigation and delay?

There is yet another nonbinding scenario that has not been evaluated with the SEIS. The Animas-La Plata Water Conservancy District is an irrigation ditch -- irrigation district, pardon me -- and that the members of the Board of Directors are mostly irrigators and the area service provides for irrigation land.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Decker (con't)**

The directors are ready and willing and able to convert the Ridges Basin Reservoir into the irrigation project for the dry side at the first opportunity. In any M&I scenario, the Administration should first see to the deauthorization of all irrigation portions of the previous Animas-La Plata project and furthermore to contract only with municipal users for municipal water.

And I prepared this, and I'd like to extend and revise this part of the material. Thank you very much.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Speaker: Mr. Craig**

Good evening. My name is Geoff Craig. I'm an attorney in Durango, Colorado, with the law firm of Maynes, Bradford, Shipps & Sheftel. My law firm represents some of the proponents of this project, including the Southern Ute Indian Tribe, the Animas-La Plata Water Conservancy District, and the Southwest Water Conservancy District.

I'm not here tonight, however, as a paid attorney speaking for those clients. I'm here as a citizen speaking on behalf of myself and my community. I'm a native of Durango, Colorado. I was born in Community Hospital in 1967, I graduated from Durango High School in '86, and I've seen a lot of changes in this community. And I'm a strong personal proponent of this project, as well as a proponent on behalf of my clients.

**38**

And the reason I'm here tonight is because we can't look at this project in the year 2000 with blinders on and forget how we came to this point. And I'd like to inject a little historical perspective to give you-all a basis for why we have to build the Animas-La Plata project.

FT-38      Comments noted.

In order to do that, we have to go back to at least the 16th century, if not before. The early Spanish records indicate that the Ute domain occupied almost all of what is present-day Colorado, including about two-thirds of the eastern area of Utah and parts of the surrounding states, including Wyoming, Kansas, New Mexico, and Arizona.

In 1848, we had the Treaty of Guadalupe Hidalgo, which brought the southwest United States under United States control. At that point, we had an influx of Europeans into this area. Prior to that time, the Utes had very little contact with the Europeans. That influx of non-Indians caused pressure to the Indians and required them to cede a large portion of their original aboriginal domain and change their way of life.

## **FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Craig (con't)**

In 1868, if you look on the map here, the Ute Indians were required to cede most of their territory in Colorado, and they were relegated to the western third of what is now Colorado. In that treaty of 1868, the United States stated to the Indians, "This land is set apart for the absolute and undisturbed use and occupation of the Indians." The United States now solemnly agrees that no persons except those here and authorized so to do shall ever be permitted to pass over, settle on, or reside in the territory described. That promise was not kept.

In 1874, we had the San Juan cession. If you look at the square in the lower portion of the 1868 reservation, that was caused by gold being discovered in the San Juan Mountains in 1860. Because of that, the miners were not going to be deterred by the 1868 treaty, and they trespassed on the Ute land, subsequently pressuring the United States to cede that additional portion.

In 1895, what you see at the bottom there is the present-day Southern Ute reservation and the eastern portion of the present-day Ute Mountain Ute reservation, which was carved out of the original 1868 treaty. The rest of the Utes were kicked out of Colorado because of what has come to be known as the Meager Massacre, which was really the excuse to kick the Indians out of Colorado and settle them in Utah, away from their homeland.

I bring this up because I wanted to be clear here who has done the compromising. The proponents of this project are not compromising one iota. The Indian tribes and the other proponents of this project have done all the compromising.

In 1986, we had the Settlement Agreement where the State of Colorado and the other interested parties in the project sat down and they wisely chose to negotiate a settlement rather than litigate the Indian water rights claims as have been done up in Wyoming. That was a very good example as to why not litigate Indian water rights claims. It's a lose-lose situation for everybody.

## **FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Craig (con't)**

The '86 Agreement was ratified by Congress in 1988. Congress confirmed the 1868 water rights for the tribes, and Congress stated that the Animas-La Plata project was the means to settle the Indian water rights claims. At that point, the ALP was about three times bigger than it is now, and it was going to have about three times more depletion from the Animas River.

Since that time, as we all know, we've had a great amount of debate over this project. We've had endless studies of this project, and at the end of the day, what we have is a project which is about a third the size of the original contemplated project and about a third of the cost.

The irrigation has been completely cut out and the tribes have chosen to accept about 19,000 acre-feet each from the project instead of the 30,000 acre-feet they would have received under the original project.

Again, who has done the compromising? It's been the Indian tribes and the irrigators who have given up all of their hope of having irrigation water in the future so that we could settle the Indian water rights claims once and for all.

Ironically, the project that we have today is very close to the project that the Sierra Club proposed in the early 1990s. Essentially, the proponents told the environmentalists put up or shut up. And they did a study and they came out with a study. And lo and behold, Sierra Club proposed a reservoir at Ridges Basin, which is about what we have now.

Now that the growth proponents have gotten to that point and given the environmentalists everything that they want, you would think that the opponents would declare victory. No, they've said that we can't have a reservoir now, we have to have a nonstructural alternative.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Craig (con't)**

That alternative -- the biggest flaw in that alternative is that the tribes don't want it. If they don't want it, then it's not going to be a settlement for this project. The other thing is that it will not work under the Colorado water law. Thank you very much. Please build the ALP.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Speaker: Mr. Baker, Jr.**

Good evening to all of you. My name is a John E. Baker, Jr. I'm a Southern Ute Indian, born and raised in Ignacio, Colorado. I have a teaching degree in elementary education, I have a Masters Degree in Public Administration, and I have a Ph.D. in common sense.

As I was looking at the folder back there, the booklet, it listed some of you folks. Common sense tells me that we've been practicing the Number 10 Alternative for 35 years -- no action at all. Is that true? Nothing's been done. Nothing.

I heard someone say they don't want the water to evaporate into the basin we're talking about. Well, every day I watch the water go down, evaporate all the way to New Mexico, all the way to the Gulf of Mexico. Think about it. Who is to tell me what I need to do with my water? I'm entitled to it. We'll determine what we want to do with it. Do I dictate to you what you ought to do with your water? No.

Furthermore, I see a good example of bigger and smaller. This, the greatest nation on this world, on this planet, can't make a commitment to keep those entitlement treaties to two small tribes. Yet they can build a \$10 million bomb to destroy the world. Six billion people live on this planet, and only 1500 people in the Southern Utes, and a couple thousand Ute Mountain Utes.

What are we asking for? The State of Colorado really belonged to us at one time. As a matter of fact, we're missing 49 other states. We had a map up here. What happened to the other 49 that used to belong to the first Americans?

Those of you involved in your rafting business, don't worry about it. That dam might be the best thing that ever happened to you during the drought. The fish, they've been here for hundreds of years, and they'll be there another hundred years.

## **FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Baker, Jr. (con't)**

Someone mentioned earlier that this project was approved in two states, or two counties. Makes you think about the democratic process. I appreciate the comments, because they're absolutely true. It's already been approved. And water keeps going down south. Last night I pointed out everybody will find a reason to stop this project. The real issue is they don't want us to have this project.

I'm a person that likes to think of all possibilities. And once we have this reservoir complete, we will have more possibilities. But until then, all we can do is watch what other people are doing with our possibilities down south and further south.

The letter from Babbitt, he talks about things that are honorable. Well, you know, those things that I think that are honorable are those things you can't see. Where is the Governor's responsibility? You cannot go to the grocery store and buy a cup of responsibility and honesty, can you? No, you can't. Those things you cannot see.

The rafters that worry about their business, the only problem they have to worry about is me, because they're going to have to pay a higher fee for their rafting permits.

There's more to this than just the water issue. I want you to think about this, as well. People in Northern New Mexico and Southwest Colorado will benefit from this, several Indian tribes. The Utes will benefit from this. And who knows, one day we might have a delivery system going through the western part of our reservation where it's pretty dry right now. But one day, it could be green. Not the kind of green you taxpayers are talking about. I mean natural green.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Baker, Jr. (con't)**

So as I stand here, I think about all those people who have opposed this project for 35 years. Believe it or not, my dad is 83 years old, and he started working for this project, and now I have to take over. And as long as I'm standing here and able to breathe, I will continue to fight for this project.

To some of you, the water may not mean much to you. But to me, it's right up there with oxygen. Turn off your faucets tonight, don't turn it on; you know what I mean.

Some people were worried about the elk habitat. Don't worry about the elk habitat, they were here long before you came, and all they have to do is find another route, they're not stupid. It's within them, it's their calling. They know what to do, they know why they're here.

**39**

And the Southern Ute Indian Tribe and the Ute Mountain Utes know why they're here. They know exactly what they're going to do. We don't have to tell anyone. So all I'm asking is this: Demonstrate to me that you have decency and common sense as well, and we'll get this project built sometime during my term as Chairman of the Southern Utah Indian Tribe. Thank you.

FT-39

Comments noted.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Speaker: Mr. Barr**

Dave Barr, Farmington, New Mexico. Ladies and gentlemen, we've had some history mentioned to us this evening. I'd like to go back a little bit further. If we're going to claim what our ancestors had, where they were, I'd like to claim the west coast of going back to my Norsemen Viking ancestors. I don't think that this is going to happen. I don't think it's going to happen that they can reclaim what their ancestors had in the past.

40

Ladies and gentlemen, whether they like it or not, they lost the war. We're not trying to tell the Indians what they're going to do with their water. We believe that the Indians should get their water -- what their just, legal right of water is. I don't think there's anybody that would deny anybody water, especially for their home.

FT-40      Comments noted.

There are many, many -- not just the Utes or the three tribes that were mentioned in the Animas-La Plata that need water. Navajos outnumber them ten to one. They do not have water in their homes in many, many cases. This is the next thing down the road for a legal lawsuit.

Right now in San Juan County, we have approximately \$8 million that was collected for this project. On the cash settlement, as I understand it, we are going to get exactly one-half of the amount of water that we were originally told, or 10,000-plus acre feet, at twice the cost. This cost is only the down payment. Approximately \$2 million a year will take up in maintenance and power to run their pumps. The municipalities will get the bill. So you're going to buy a pig in a poke with not even knowing what it's going to cost you.

## **FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Barr (con't)**

Years ago, when we were up and built Navajo Dam, we put in the facilities for Northwest New Mexico. We thought this was going to take care of the Navajo Tribe and the northwest corner of New Mexico, which it could today. Somehow we got roped into this Colorado Indian federal government boondoggle, and we ended up with the bill. Not only do we pay for it, but New Mexico water is going to be used for a recreational lake that they can build these \$300,000 homes around and make another Lake Tahoe.

And if you think I'm kidding about that, just read who owns the land. The Utes don't own it. They've got plans for it. And if you think that Mesa Verde is going to stand by and have an open pit mine within the view of Mesa Verde National Park, look at the history, folks. That's not allowed.

To put in another power plant, Mesa Verde will not allow it. It's on the record, it's going all over the United States. National parks will reach out and put a stop -- I don't care what it is, gold mining, any type of mining, any type of power plants or pollution. They're even working on our two power plants that we have here.

The amount of money that the people have paid out of their taxes pays their property. Now, believe me, if you don't want to pay this money in taxes, just stop paying it and see how long you own your piece of property. It will disappear in front of your eyes. I don't care how many ancestors you have or how many people have owned it prior to you. You are renting it, whether we like it or not.

We weren't hatched under a rock, we all came the same way. We all came into this world with nothing, and we'll leave it the same way. Whatever is left behind will be for our ancestors to use as they see fit.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Barr (con't)**

In 1877, the waters ran through the San Juan Basin. The people moved in to the San Juan Basin, they saw the water running through the land, they got out their picks and shovels and they dug ditches and made a green oasis out of this valley that we know today.

The Indians stood there and threw rocks and said white men were loco. Now they want us to build and pay for their irrigation projects.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Speaker: Mr. Browning**

Hello, I'm Bob Browning from 333 Browning Parkway in Farmington. Now, I've been here since 1956 and I recognize that all of us in this room have a lot in common. We have our differences, we come from different parts of the world, different genetic backgrounds, but we have a lot in common.

One thing we have in common is we all need and use water every day. Everybody needs and uses water. We all recognize the need to look for water for our future. Because we're not talking about the need for water today. We all have all the water we wanted to drink today. We have water to bathe in, we've had all the water today, this week, and this year we need.

So what we're talking about is water for the future. But more than just talking about water, this is more about money and politics and power than it is strictly about water. Water is needed, even though we have the need for it. And what we need is more common sense, like one of our Ute Chairmen mentioned -- he had a Ph.D. in common sense. We need to employ that, no matter who we are or where we came from.

And speaking strictly as a New Mexican, now -- well, let me say first that I've been a proponent of the Animas-La Plata project as it's been designed ever since I first heard about it. If I had been here back when it started out as a diversion project, taking water out from above Durango and gravity flowing it into the La Plata watershed -- and that's where it started -- and at that point in time, the Utes were not involved in this. This was agricultural, back a long time ago. I would have supported that.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Mr. Browning (con't)**

But it has evolved one step at a time into one monster after another. And I'm glad that we have opponents, because the opponents brought about this meeting this evening. If this project had not had opposition, it would have been built and there would be 40,000 acres irrigated in Colorado and about 10,000 irrigated in New Mexico, using Animas River water that would have been lifted almost a thousand feet to irrigate with. And every acre irrigated would be subsidized agriculture. It would be paid for by the American taxpayer.

“The farmer cannot pay for that. I have good friends who are farmers here on the dry side, and I appreciate their want, their desire for water. Everybody wants water. But we don't have enough water to satisfy all the ideas and all the dreams that we put forth. We have to all use this water in some kind of an equitable way. And I'm glad we're in this Four Corners country, it's the best place in the world to live.

If you in Washington ever get the chance to come out here and live, you ought to do it, especially New Mexico. We're down here out of the snow, but we can be up there skiing in an hour. It's just a great place to live.

And now I'm going to speak as a New Mexican, as a resident of San Juan County. I think New Mexico is taking the brunt of all this. New Mexico is necessary to pull into the picture, to even have a hope of getting this done, as the Ute people were pulled into it at one time in order to get this project accomplished. And New Mexico, to me, has the least to gain and the most to lose.

The Animas River runs through Farmington, and we spent millions of dollars, the City of Farmington has, to beautify the river, to build parks, to build trails, to pave the recreational areas. And at the same time, many of these same people are pushing for the building of the Animas-La Plata, which would take water from the river that's flowing through Farmington.

**Mr. Browning (con't)**

I know we all are involved in economic development, and like I say, this is mostly about money and power and position, and that's caused a lot of problems. And we need to back off now and look at the alternatives.

The most feasible M&I water plan I have ever seen for New Mexico came from Lake Navajo. It was a pipeline that came out of Navajo Dam and supplied water for all the communities in New Mexico, in San Juan County, and went down to Shiprock. Thank you very much, I could talk all night. Thank you.

**41**

May I ask one more question? One thing I forgot to mention -- if a pipeline is so important to go from Farmington to Shiprock, why is not it just as important if this is built to have a pipeline from the reservoir to Farmington? Something I can't fathom is why this one pipeline -- the Animas River runs through Shiprock, also. Shiprock could pick up their water the same way Farmington would have to pick it up to supply their pipeline with water for Shiprock. And if this thing is built, Farmington should be insisting on a pipeline for Ridges Basin to the Farmington plants. Thank you.

FT-41

Reclamation evaluated the option of using water from the Navajo Reservoir to meet part, or all, of the ALP Project water needs, and was unable to identify sufficient water to do so. Further, the location of Navajo Reservoir in New Mexico is too far downstream to effectively meet most of the water needs to the Colorado Ute Tribes. The proposed pipeline from Farmington to Shiprock, the Navajo Nation Municipal Pipeline, would be the most efficient method of delivering this water.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Speaker: Mr. Kirkpatrick**

Good evening. I'm the San Juan Water Commission Executive Director, offering some general comments on behalf of them.

I would first, on behalf of the San Juan Water Commission, like to thank the Department of Interior and specifically the staff that has sat here in patience and made available this opportunity for people to comment on the draft SEIS.

Because the San Juan Water Commission did not participate in the drafting of this EIS, we have only general comments today. The Commission appreciate the department's professionalism in meeting the promised draft SEIS deadline.

**42**

The Commission intuitively felt and is pleased to see the departments acknowledge that a structural alternative is the best solution to meeting the Colorado Ute Tribes without undue harm to the agricultural and domestic water users in New Mexico and Colorado.

FT-42      Comments noted.

Alternative 4 provides wet water for municipal and industrial water demand growth without further loss to our agricultural community which provides the open spaces and environmental value that we enjoy.

Unanticipated was a lesser bout environmental impact of the structural alternative. The San Juan Water Commission and their entities have established and documented current water supply needs and projected M&I growth in the respective service areas, including the cities of Aztec, Bloomfield, Farmington, and nine rural water user associations.

## **FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

### **Mr. Kirkpatrick (con't)**

These project beneficiaries, under the San Juan Water Commission's contract of the United States, are now using the New Mexico ALP water that should meet part of their needs. Under the ALP project allocation anticipated, the SEIS and House Bill 3112, the San Juan Water Commission receives two-thirds, or 20,400 acre-feet water supply, representing 10,400 acre-feet of depletion, which meets only a portion of this member entity's projected water needs.

As an ALP project, water continues to be diverted from the Animas and San Juan rivers using existing diversions, pumping, and storage facilities, with releases in water in short years for shortages, as it is today.

The Commission looks forward to more discussions on other specific questions raised by the draft SEIS. In that spirit, the San Juan Water Commission will provide detailed comments on the draft SEIS by -- I guess now it's April 17th, 2000. Thank you.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Speaker: Mr. Rychlik**

My name is Dennis Rychlik. I'm a resident of Farmington, New Mexico.

I consider myself a resident of the Four Corners Economic area. I am not a politician; therefore, my statement will be short. I would like to see the Animas-La Plata project completed. First, I would like to see us get what we could get right now in the current form, and then go after the full-blown Animas-La Plata project.

Here we are one more hearing, a delay of the Animas-La Plata plan less useful to the residents of the Four Corners area. This includes most of us here at the hearing. This is not the first hearing; the water rights experts here know that there is a bunch of water diversion projects supplying them into the west from the La Plata.

There's a bunch of water diversion projects supplying water to Southern California. There is a bunch of water diversion projects supplying water to the Phoenix area. We are not isolated from them. Here is a window of opportunity for residents of the Four Corners area to get water rights. There's only one way to get these rights, is to fund a project by Congress. Let's get it funded.

43

Promises were made to the Ute Mountain/Ute Indian Tribes. Let's keep this promise. Promises were made to the Southern Ute Tribe. Let's keep this promise.

FT-43      Comments noted.

Opportunities are being sought by municipalities, water districts, ranchers, and other Four Corners in the economic area. Let us pursue these opportunities. Again, let's press for funding.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Rychlik (con't)**

If we delay, if we do not act, this water will go to someone else and become someone else's rights, not ours. Let us make the best possible economic world for the Four Corners area. I would like to see a growing move to fund what project is on the table. It seems to move well. And then go after the full -- the Animas- La Plata project.

I thank you for listening to my voice and my opinion.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Speaker: Mr. Hull**

My name is Steven, and I drove up from Durango. I would have gone to last night's meeting if I didn't have to work.

A couple of comments on some things some people said. It is pretty apparent after I speak that I disagree with the last speaker, which I think his vision of economic -- whatever that vision was, something to do with the economic prosperity of the Four Corners which, of course I would like to see, but I don't think that the Animas-La Plata or getting water to the Utes should be seen as an opportunity to destroy habitat and land.

I disagree with the statement that the elk -- I do agree the elk are, of course, smart. But with all the timeshare condominiums being built in Durango, such as the one near the college, and all the development, there's no elk around where I've heard the Ute people tell me they've seen them at the college. I haven't seen elk up there, and I live right in town. So we will lose the elk, we will lose the bear, we will lose the mountain lions, probably within the next 30 years, I would think.

I am concerned about the wildlife, of course, so I'm speaking up for them. And I do believe the Utes should get their water. But I believe there's creative ways that can be found to get the Utes the water. Over the past five years I've seen other suggestions and proposals to get the Utes the water. I feel sorry that the Utes are a minority group; they've had everything thrust upon them and technological advancements has had such an effect on world cultures the world over.

Happiness is not necessarily equated with technological progress to me. Just because something is technologically a tool that helps us live easier does not mean that we are living better than we did 10 years ago, 20 years ago, 200 years ago. I feel sorry for the minority groups such as the Utes that are pawns to these pork barrel projects.

FT-44 Reclamation agrees that growth and development place pressures on wildlife habitat, and affect wildlife populations. However, the structural components of the Preferred Alternative have been designed to minimize habitat impacts as much as possible, and Reclamation has committed to acquiring wildlife habitat as mitigation. Refer to General Comment No. 11 for additional comments on elk and deer habitat impacts at Ridges Basin.

## **FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Hull (con't)**

I spoke at the Ignacio High School on the Southern Ute Reservation two weeks ago, to the high school, to some classes. And I talked about my trip to the rain forest, where I lived with some tribes there five years ago and last year. I can't speak for the Utes, but I can speak for the Kilobit and the Tunong friends I made when they said when you go to America, tell the people in America that we don't want condominiums looking down onto our tribal homes. We do not want all this development coming at a pace that we can't handle.

And if the development does come, such as, by the way, a hydroelectric dam -- I saw a place where 10,000 people were evacuated out of their homelands because the city needed electricity, so the government flooded out an area where 10,000 people had to be moved and relocated. And this was just five years ago.

When I went back there last year, the government and military had surrounded the area and I wasn't welcome as a foreigner to go see. And my friends were living in poverty, their hunting grounds gone. So I bring that up and to say that I won't even say it's Western society, but the world society of our modern edition is speeding everything up and trying to get everything to be so greedy and not thoughtful for life, the plants, animals and the people. That greediness causes a lot of pain.

And this project, some things will be lost. Some things may be gained, but a lot will be lost. And it's a shame that us humans, we are so smart but in a way we are not smart. And although it might sound kind of silly to stick up for the elk instead of people, something like that, I want to stick up for people of minority groups and the wildlife. So thank you.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Speaker: Mr. Stanley**

My name is Ken Stanley. I'm a math and science teacher. My wife and two children live along the Animas River, my grandfather is about half Cherokee. My wife got her Masters in Cross Cultural Education, I've worked with Native Americans. We both teach. Our student population is about a third Native American, primarily Navajo.

Certainly I'm very supportive of Native American causes. I'm certainly not against the Ute Tribe having a common-sense gravity flow reservoir off the Animas River. But the proposed project, I'm surely against it.

I do my student teaching in Ignacio, and I have great respect for the Ute people, and I do give a special thanks for those who have helped in the fight against the ALP. From the words of Albert Einstein, "Children who wonder about things like life, time and space are satisfied with stock answers and never give them another thought as adults. Because I was a late developer, I first pondered such simple questions as an adult and so probed them more deeply and tenaciously than any child would do."

The stock answers from the politicized Animas- La Plata project proponents continue to muddy the waters from some simple child truths. Pumping water hundreds of feet uphill defy the laws of gravity and common sense. Depleting the flow of the Animas River to levels of only 225 cubic feet per second below the pumping station will not only increase the effluent ratio, lowering the water quality, it questions the probability of an adequate supply for existing and future agricultural/industrial/ municipal needs.

This certainly questions the health of the riparian downstream Animas River ecosystems. It doesn't take a rocket scientist or Albert Einstein to solve a simple math problem. The numbers don't add up. The existing and future demands from downstream users in Colorado and New Mexico will not allow the guaranteed safety buffer for the ecology of the river.

FT-45 Reclamation reviewed several gravity storage reservoir options, and rejected them because of their environmental impacts. Please refer to General Comment Nos. 13 and 15 for additional discussions.

45

## **FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Stanley (con't)**

It is very unfortunate the ALP political battalion has been allowed to leverage some of our hard-earned tax dollars to hire professional ad agencies and Washington lobbyists posturing as a Native cause while grass-roots citizens collected their pennies and nickels to put up a good fight.

As we were gathering stones for our slingshots, the proponents brought in a machine, had invested in tanks and heavy artillery, destined for Washington. I've been teaching our good neighbors to legitimately share joint stewardship and ownership of a magnificent western river, to help find a more ecologically sensible solution. How could we put a price tag on a living, flowing river?

When the last bald eagle makes his final journey from the banks of the Lower Animas River, I will not blame our Ute brothers and friends, but the profiteers and politicians who have blinded all of our eyes. Thank you.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Speaker: Mr. Cook**

Howdy. I'm Kevin Cook, I'm from Farmington. It occurred to me at I sat here listening to all this that we're living in a time when there is a great deal of sentiment against the big water project, against the big dam. There's more feeling that we should be breaching dams rather than building them. But here we are, we're sitting here thinking about building something that's far sillier than any dam that I can imagine.

The so-called new improved ALP light is a first step in a process that in all likelihood will end up in an expanded project and leave one of Farmington's most prized resources very seriously compromised.

Why would I say that? Well, we've already heard from State Engineer Turney who wants ALP to include a La Plata Water Conservancy District, a larger share of water for them so they can irrigate. And one by one, all of the non-Ute interested parties in the original pork barrel project are going to land and weigh in, I should say, and develop -- get their toe in the door. And what we'll have is we'll have ALP as it was originally conceived.

Now, what's so bad about that? Well, I only appeal to the Secretary of the Interior's good sense. He saw, as most other people saw, that that project was environmentally and economically flawed. But that's exactly where we're going to wind up.

FT-46      Comments noted.

**46**

Additionally, it's going to leave all the taxpayers in the United States, including all of us here in Farmington, to pay in perpetuity to pump the water in question up several hundred feet to Ridges Basin. It will leave all the taxpayers in our city, in Farmington, to pay for what will be -- what will amount to a loss of the quality of our life.

## **FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Cook (con't)**

You know, by consensus, by the secretary -- by Secretary Babbitt's own opinion, we had a bad project in ALP as originally conceived. So now we're improving -- and we already had dialogue about the deleterious effects of the original ALP. So by improving the ALP light, we're paving the way for the same undesirable environmental and economic effects in the name of addressing -- all in the name of addressing the only remaining cause, it has some justification, some nobility.

As a U.S. citizen and as a citizen of San Juan County, we need to find -- I want to say that we need to find another way to meet the needs of our neighbors in the reservations to our north. This is just silliness, it's going to lead exactly to the place it was vilified by the Administration that said putting forth this Proposal Number 1, which will surely end up -- and a lot of people here have said, you know, I was in favor of the old ALP, and I'm in favor of this little ALP here, too, because we'll make it a big one, you know. And that's just exactly where we're going with this.

I kind of feel a certain futility in being here. I'd like to go on record as saying that I do feel as though the skids have been greased for this thing. I think the deals have been cut and the minds have been made up. But I felt it was best anyway to come out and say what I think. Thank you.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Speaker: Mr. Trujillo**

Good evening. My name is Arvin Trujillo. I'm the Executive Director for the Division of Natural Resources for the Navajo Nation. I'd like to thank you for allowing me to speak this evening on this issue.

First of all, I want to thank Mr. Connor for coming down to Shiprock to the chapter house there and explaining the project to the people down in Shiprock, giving them some insight as to what the Animas-La Plata project is about and areas that will be affecting the Navajos and the communities in this northwest part of the State of New Mexico.

First of all, let me say that as the Executive Director for the Division of Natural Resources, we look at this as an opportunity for our people also. I come from this area, was born here in Farmington and went to school in Kirtland. I grew up in this area. And while it is a very critical issue, but the thing that I would like to stress is that as you look along the reservation, as you look along the communities of Waterflow, Fruitland, Kirtland, coming up towards Farmington, and you see the disparity from the north side of the river to the south side of the river, there's much that has to be done.

FT-47      Comments noted.

You look at the disparity between the communities of Farmington, Kirtland, you see a growth happening in Kirtland, Fruitland. And then you look at Shiprock.

The water that can be developed through the structural alternative coming to the Navajo Nation is but a step for us to begin to share in what many people here in this community, a community that I have grown up in, have taken for granted -- to be able to flip a switch and have lights come on; to be able to turn a faucet and to have water.

47

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

Mr. Trujillo (con't)

And we look at this now as an opportunity for us to begin to share. Because just as fire -- fire needs three ingredients in order for it to burn. You need air, you need fuel, you need heat. In the same way, if we want to grow and to develop and to enjoy the same opportunities that these communities have enjoyed over the years, we need -- besides land, we need water. We need power.

So this is but a step. The structural alternative concludes that this will be a less impact; therefore, there will be less impact on Indian trust assets. It also allows the Navajo the greater ability to begin to utilize water and to have water.

Traditionally, as I've come back and as I've begun to participate within my own government, I've listened to my elders and I've listened to those when I was younger I thought were foolish. But now I see a wisdom in their words. Because we have spoke, saying the water flows and we must share.

There are brothers and sisters down on the river, and it's also theirs, too. But the society around us have generated the rules. The society around us have generated the way we have to look at things. And because of that, the Navajos as well as the Jicarillas, as well as the Utes, are beginning to play by those rules.

And as we begin to do those things, we hear an outcry of foul, we hear an outcry of that's not fair. And so I ask you gentlemen and ladies to consider us as Indian communities, as friends, as partners -- that we, too, want to share in what you take for granted at times.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Trujillo (con't)**

And it is with this thought that I come to you, saying that we need this because water is scarce, water is important. Water is each of us, it is a part of our life. We have plans that identify with water, we have songs that identify with water. So we, too, understand the importance of water. And we, too, understand the importance of sharing that important resource with the communities and with those people around us.

But allow us the opportunity to have this precious resource for our own people also, that we too may grow, that my children and that my grandchildren will be able to go forward and enjoy what many of us call the American dream.

And it is with this that again I come to you and I say I appreciate the time that you're giving me. And again, Mr. Connor, I appreciate the time that you gave to our people out at Shiprock. Thank you very much.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Speaker: Mr. Heart**

Good evening. I was up at Durango last night. I made a pretty good speech up there, hoping people would listen. My name is Manuel Heart, I'm from Towaoc. I'm a tribal councilman from the Utah Mountain/Ute Tribal Council.

What this boils down to is we have something and you guys want it. A hundred years ago we had land and you guys wanted it. You took it. We had gold, we had minerals up there. They came in and got it, as it was explained earlier on the map. We're down to the corner right now. I live on a reservation with 2,000 tribal members. They didn't have potable water until 1991. We had trucks coming from Cortez daily so we could have potable water to drink.

We had outhouses. Now we have rest rooms. It's good. I mean, you guys don't know what it's like to have a rest room. We're learning it and we like it. We have water that is given to us that was ours, that was written down on paper.

We didn't have land 200 years ago, a hundred years ago, that was written on paper. We roamed it traditionally. Then we started getting put on reservations. Then we said hey, we need to put this on paper so people can't take it away from us.

The government said you know what? We're going to do something else good for you. We're going to design how you're going to live on this land. And they do that to this day. Now the government's been doing it for over a hundred years. The common people in the community are saying hey, the government is doing it, why can't we? I want to make a decision for that person living over here on the Ute Mountain Reservation. I'm going to say hey, I've got an alternative for you. Let me show you how to spend your water.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

### Mr. Heart (con't)

The gentleman sitting next to me earlier said sell it, we'll pay you for the water. I don't want money. I want water to be there for the future of my kids.

There was a guy that came up here and said he was a Norseman. I'd like him to go home and litigate with his ancestors, his native people, on land issues. I'd like to see him litigate something like that and see if he wins.

With the growing number of population of people coming into this country, this area, there's going to be everybody trying to get whatever they can out of the land, the water, the mineral rights.

You know, the gentleman that said we'll give you money for it. I'd like to see the first person who's going to say oh, yeah, Indian, I've got some land for you. I'm going to sell it to you. But I got it at a real high price. It doesn't include water rights, or maybe it's a junior water rights, but you don't get no mineral rights.

We're stuck between a rock and a hard place. We tried to work in a joint venture here. We tried to work with the farmers up here so they can get some water so they can make a living here. Because they've been making a living for generations.

If we say let's make it an all-Indian project. If it does -- exactly. This guy says who's going to pay for it? Taxpayers. I'm a taxpayer. If they say make it all Indians and I say I want it to reach to my reservation then, I want a pipeline put in, this guy is going to say, "Jesus Christ, who's going to pay for it?" We lost land already. It's already owed to us.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Mr. Heart (con't)**

Now we've got water we pay for which is ours, to make a decision to do what we want to do. I don't need people making decisions for me and my people. I've got a mind of my own. I've got other problems like health care, education, economic development for my people, Southern Ute/Ute Mountain Ute. They have agendas, what they want to create for the future.

How many people see this short-term? They want to buy it out. I don't want a buy-out, I don't want to sell out. This is rightfully my people's water.

There was a person that came up here and said I feel sorry for the minority ethnic groups. Don't feel sorry for me. Feel empathy for me. The Norseman -- feel empathy for me. You disrespect my ancestors when you say "damn ancestors." They're not damn ancestors. We've been on here a long time. They had visions. I had visions. I want something set there for the future of my tribe. They're a growing people.

I can't stop people coming into this land. It's beautiful, it's rich. But if I have something that I own, I want to be able to take it and utilize it for the prosperity of my tribe, the Ute Mountain Ute and the Southern Ute.

You know, there was a guy that came up here and said oh, the elk habitat -- the wildlife. What are we going to do, they're going to take off. We'll live without, with a growing number of population. They're already doing that now in Durango.

You know what? They got the elk fenced up now. There are elk ranches right now. By the way, it's the same thing as what they're doing to the Indians. They're putting them on reservations and telling them you will do this, because the government is doing it in your behalf, for the benefit of your people.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Mr. Heart (con't)**

We go to Congress, we vote on senators and congressmen. There was a gentleman earlier that said oh, that guy, he's being paid off as a senator. They're paying him under the table. Them people don't know what they're doing. It's the very people that you guys voted in as a majority. Them people that are in the senate seats and the congressional seats, they're not dumb. They have respect. They look at everything all across the board. That man who said that is calling me dumb by putting somebody there that I don't think -- I know nothing about.

I know something about these candidates before I vote for them. I put them there for a purpose -- to advocate for me, just like every one of you do. You put them there for a purpose, to advocate for you guys.

And they called this pork barrel. It's a meat that's in a barrel. What's the purpose, what's the meaning of the name pork barrel? I don't understand. To me, I'm living for the future of my children. I don't want to be bought, I want something that is mine, my people's.

48

There was a person that came up here and quoted Einstein. Then quote me: My people are saying I want my water. I want it for the future of my kids. I don't need you to make that decision for me what to do with it. We will decide that. Thank you.

FT-48

Comments noted.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Speaker: Ms. Arviso**

Good evening. I want to thank all of the officials that sit before me. My name is Arlene Arviso, and I will speak on behalf of Crownpoint Chapter, where I am a coordinator. And I will also speak as an individual who is a voter at the Sanostee Chapter near Crownpoint, New Mexico.

I'm a Navajo, I'm of the Salt Clan and the Water Clan. And someone mentioned earlier that we are connected to the water. And it's very important that this is acknowledged. I am part of the clan that -- of the flowing water clan. And not only am I connected to the water in that way, I have the highest of respect because of it.

I'm supporting the Animas-La Plata Water Project on behalf of my Ute relatives to the south, to the north. And I want to go on record as supporting them because through their projects, many of my Navajo counterparts, our Navajo people in the valley between here and Shiprock, will be able to benefit from it.

And I think that as -- now I will speak as an individual. You know, for so long I think Native American people have been living in a world of repression. I have lived there. And all my life -- I don't know if anyone knows what it feels like to be repressed, to sit in here and to listen to the people and see them throw darts at you. It's an experience. I don't know how many people, how many of you have ever acknowledged.

And I become strong again when I hear my relatives come up here and speak on behalf of this project. I come from Eastern Agency from Crownpoint. I live there with my father. We have no running water in our home.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Ms. Arviso (con't)**

The water that you go home at night and switch on at your convenience, as I go home tonight I will warm water from my 15-gallon water cooler that we have on the kitchen floor. We haul water by 500 gallons, sometimes twice a day, to feed our cattle. We're not the only ones that live this way. There are many of us throughout the Navajo Nation who live this way.

Later down the road we would also like to have water. We would like to have water that we can nurture our ground with for a garden. You-all have little tiny patches of garden around your house. I have a small garden, too. After my mother died, I planted that garden. I haul the water every other day, 250 gallons, so I could have some squash and some corn at the end of that year in the Autumn season. It is a wonderful but humbling experience for me.

After spending time at ASU and then coming home to where there was no water, it is a humbling experience. I'm doing what I can to help my people. I went back to school and received my Bachelors Degree in social work. Sometimes you almost feel hopeless. Having no water has a very devastating social impact on my people. We need water in the worst way.

You know, this highway that connects from Thoreau to Farmington, 371, we live on the east side. There is no water on the east side, there's only water on the west side. We look across, we know those people have water there. And we hope that one day we will have water. We hope one day there will be enough water. We'd like to see some water come to Crownpoint and some of the neighboring chapters with the Navajo and Gallup pipeline.

**49**

You know, that's a dream. And many that spoke tonight spoke of having visions and dreams. I have a dream, too. I would like to see us get some water. And, you know, this is -- I'm glad to be here.

FT-49

Comments noted.

**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Ms. Arviso (con't)**

At one point in my life I don't think that I would have been able to withstand the pressure of making a stand like this. But tonight because there were a few of us, but I have been energized by the things that they have said, and I'm proud to be here in support of this project. Thank you.

## FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)

FT

**Speaker: Mr. Lee**

Good evening audience and also the delegation from Washington. My name is MacDonald Lee from the Shiprock Chapter Vice President, and I do have some questions. And also we had a terrific meeting down in Shiprock, the public hearing. And I'd also like to say that we appreciate Mr. Connor for being down there and for the delegation that was there.

But on the ALP for our nation, within the Northern Agency, Western Agency, my question is that within the 23 -- 22,340 acre sphere, the placement of water for our municipal and industries, the use of it, I have a question on that. Is that enough to be used? And also, what are the plans to enlarge the current pipelines from the Farmington to Shiprock once this waterline gets constructed to the Shiprock post?

In this day and age, presently the year 2000, our community is running from 15 to 17,000 population. And it's a continuous population day in and day out. Because of a lot of small communities from the outskirts are moving to Shiprock for the utilities and water, they need the necessity that's needed out in the rural areas. We must accommodate the other communities around the Shiprock areas.

My concern will be that is that enough water for the Navajo people and also our neighbors, such as for the NIIP, future growth in the communities, especially with the irrigation system within the San Juan River. And also, is there going to be enough water for the Navajo Nation in the future? We're talking about the future droughts.

FT-50      Comments noted.

If a future drought does come upon us, where are our communities and families going to get relief from this water? As a delegation up in Washington, I'm here to ask our concerns and our requests, and also help my Native American Indians as much as our community surrounding non-Indians. We have a lot of non-Indians that live in the communities, and I also have concerns.

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**FARMINGTON, NM TRANSCRIPT (February 16, 2000 Public Hearing)**

**FT**

**Mr. Lee (con't)**

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**(con't)**

So my request is help us and give us more water, because that's our survival, that's our life in the future, and a thousand more years to come in the future. And I thank you very much.