

**Individuals**

# INDIVIDUALS

IN1

3 March, 2000

Mark Applequist  
38871 Hwy 160  
Mancos, CO 81328

Bureau of Reclamation  
Attention: Pat Schumacher  
835 E. 2<sup>nd</sup> Ave., Suite 300  
Durango, CO 81301-0640

Dear Sir:

The following are my comments concerning the Draft Supplemental Environmental Impact Statement for the Animas-LaPlata Project following the Public Hearing, February 15, 2000.

1 | I think that the Statement does not give enough attention to the cost/benefit analysis. Possible gains in  
2 | agriculture are addressed more seriously than the loss of river boating, fly fishing, picnicking, and general  
value of life quality in Durango. If the government is seriously considering removing any dams already in  
place anywhere, that cost is not included.

3 | I know that the purpose of the comment period is to address the ALPDSEIS, but I don't know when the  
general philosophical comment period will be. Therefore, I will address the philosophical issues. In the  
timber business, we tended to cut trees as if there was an endless supply. Finally we had to face the fact  
that we may be approaching the last tree. What do we do then? The river situation is similar in that we  
have constructed dams as if there were an endless supply. Now we need to face the fact that we may be  
deciding the fate of the last free flowing river. What do we do now??

4 | I support either of two alternatives; 1.) The nonstructural alternative to supplying water for the Ute  
settlement( and no more) or 2.) Any other non-structural alternative, which has not been, formulated yet  
which would bring the Utes their water, and not destroy the Animas River. Do not build another  
engineering monster, which we know belongs in another era and time.

Thank you for allowing me this chance to comment.

Sincerely,

  
Mark Applequist

IN1-1 Refer to General Comment No. 1 for a discussion of the need for a benefit-cost analysis.

IN1-2 Comment noted. The ALP Project does not propose removal of dams, and no such costs are included in cost estimates.

IN1-3 The water resources of the region are not unlimited, and the hydrologic flows of the Animas River have been evaluated in the context of regional water supplies in the San Juan Basin in the development of the ALP Project.

IN1-4 Comment noted.

# INDIVIDUALS

IN2

**From:** Mike Bader <jaam1234@yahoo.com>  
**To:** <ALPDSEISComments@uc.usbr.gov>  
**Date:** 2/28/00 7:11PM  
**Subject:** Animas-La Plata

1

I completely and disgustingly reject the idea of the Animas-La Plata project! Some people obviously have more time than I do to think up such environmental disasters for the future of what and the greed of whom?

Mike Bader

IN2-1 Comment noted.

# INDIVIDUALS

IN3

Phil Bannister  
251 S. Clover Drive, #2  
Bayfield, Co. 81122

February 13, 2000

Pat Schumacher  
Bureau Of Reclamation  
835 E. 2nd Ave.  
Durango, Co. 81301

Pat Schumacher:

Anyone of even remote intelligence KNOWS the nonstructural alternative to the Ridges Basin proposal makes vastly more sense.

No environmental protection agency impact statements need be done because the water sources are already in place. Plus the mega dollars of the proposed dam and delivery system will not insinuate additional maintenance expenses because there will be nothing to maintain.

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

The purchasing of landowner's water rights will eventually satisfy the Utes domestic and agriculture needs. Also in the Bureau of Reclamation's own estimates they saw noting incorrect with that alternative.

But if 98% of the stored water on Ridges Basin is to go to building a coal fueled power production plant, it will go against the U.S.A.'s goal of reducing the Greenhouse gasses as was internationally proclaimed recently.

The city of Durango also is in process of funding a separate reservoir in Horse Gulch because it will be cheaper than buying into the UTES "only" water rights allocation. It would only cost 7 million dollars as opposed to 8 million dollars to put into the Ridges Basin project where no pipe lines are designated to the Durango reservoir.

And who needs more golf course which do alot of destruction to the environment (too much destructive pesticide use, herbicide use, and unproductive use of hydrogen peroxide).

Plus a new cost/benefit analysis needs to be done. Ft. Lewis College Economics Professor, Dale Leman, recently stated there would only be a .15 cents to the dollar advantage to project as it stands today which may be excessive since you can only determine the ratio based on the population of Utes on the Southern Ute Indian Reservation.

Here's hoping you a representative of the Bureau Of Reclamation, will recommend something intelligent to be done to satisfy the Ute Indians water rights in the Animas River and to go along with a much less destructive option for the world-wide-population by discouraging the production of Greenhouse Gasses and by just recommending the nonstruc-

- 1 |
- 2 |
- 3 |
- 4 |
- 5 |
- 6 |
- IN3-1 The federal action of implementing the ALP Project, whether structural or non-structural, requires review under NEPA. There would be impacts to either type of project that are discussed in the FSEIS. Either type of project would involve both construction and maintenance costs.
  - IN3-2 Future water uses are discussed in General Comment No. 6. The two Colorado Ute Tribes may decide to implement one or more of these, on either side of the Animas, and will conduct a NEPA review at that time.
  - IN3-3 The non-structural component of purchasing land and water has costs, risks, and environmental impacts associated with it. Please refer to the detailed discussion in Section 2.3 of the FSEIS.
  - IN3-4 See response to Comment IN 38-2 above.
  - IN3-5 Horse Gulch Reservoir was studied in 1994 by Gronning Engineering as an alternative to supply water to the City of Durango due to the uncertainty of the ALP Project. The Gronning Report stated that Durango's M&I water uses in 1994 were 4,033 afy and the report projected the M&I water uses for Durango by the year 2021 to be 8,966 afy, an increase of 4,933 afy. The \$7,000,000 Horse Gulch Reservoir was sized to have an active capacity of 1,025 af and if constructed would only be a short-term solution to Durango's future water needs. The ALP Project represents a long-term solution and would supply 5,200 afy to the ALPWCD which is a much greater quantity of water than that of Horse Gulch Reservoir. Therefore the water to be supplied by the ALP Project would be needed for the long-term growth of the City of Durango.
  - IN3-6 Refer to General Comment No. 1 for a discussion of the need for a benefit-cost analysis.

# INDIVIDUALS

IN3

2

tural choice of options.

Yours,

*Phil Bannister*

Phil Bannister

# INDIVIDUALS

IN4

**From:** "kurt beddingfield" <beddingfield@hotmail.com>  
**To:** <ALPDSEISComments@uc.usbr.gov>  
**Date:** 3/6/00 7:29PM

Dear sirs:

I am writing in regards to the Animas La Plata project and strongly urging you to leave the area alone. I lived in Durango for two years after college working as a river guide, exploring the area and taking in the atmosphere of a small mountain town as yet untainted by the "progress" that so often robs a community of it's character. The way a Walmart kills the local hardware store, or the leveling of a forest and mountain meadows for a golf course. Of course, this is America. And those with means tend to get what they want. That's capitalism and the right to property. But when speaking of public land and the undertaking of a multimillion dollar project with public funds, it is imperative that the project serves the majority of the people that it will affect. Those are the people of Durango. It is the town of Durango, and the state of Colorado.

There are numerous concerns about this project; social, economic, environmental. It's my guess that this is why it has been on the books for so long, an attempt to slip it by those who would stand against it. I do not know who will make this decision or who will read this letter. But I do know, that if the Animas La Plata project goes through, it will hurt the state of Colorado more than help it, and it will do serious harm to the town of Durango.

In closing, as a lover of running water, we don't need another dam. We have already lost too many of our rivers to progress and pollution. Please don't kill the Animas.

Kurt J. Beddingfield  
Austin TX

IN4-1 Comments noted.

1

INDIVIDUALS

From: "James Belcher" <bonodog@frontier.net>  
To: <ALPDSEISComments@uc.usbr.gov>  
Date: 2/17/00 4:11PM  
Subject: animas-la plata project -att:Pat Schumacher

1

i am writing to register my opposition to the "preferred alternative" and support for the citizens non-structural alternative. please reconsider your support for this wasteful and unneeded pump and reservoir system. i attended the durango public hearing and know that enough serious questions [legal, economic, and environmental] were raised to make any unbiased observer take a step back and realize that the plan as outlined is fatally flawed. please review the minutes of the meeting and honestly try to answer the myriad objections point by point. i am convinced that you must see the glaring problems of the current plan and realize that another approach is mandated to quantifying and resolving the tribes water rights. thank you for your consideration.  
sincerely, James Belcher

CC: <www.doe.gov@frontier.net>, <Babbit@frontier.net>, <Vice.President@whitehouse.gov>, <President@whitehouse.gov>

IN5-1 Reclamation has carefully reviewed the comments and questions provided during the public scoping process and have prepared responses to the issues raised. Several changes and modifications have been made to the FSEIS as a result. However, Reclamation still believes that the Preferred Alternative best meets the project purpose and need, and is least environmentally impactful than the other alternatives considered.

INDIVIDUALS

Victor T. & Sally R. Bellerue  
72 So. Hermosa Acres Drive  
Durango, CO 81301  
March 17, 2000

Pat Schumacher  
Bureau of Reclamation  
835 E. 2nd Ave.  
Durango, CO 81301

RE: Animas La Plata Project

Dear Mr. Schumacher:

The following are our comments on the Draft Supplemental EIS (DSEIS) for the Animas La Plata Project:

1 |

1. A cost-benefit analysis should be included in the DSEIS. Since this project requires pumping water from the Animas River 500 feet uphill, power costs and benefits for this project should be more closely verified and detailed.

IN6-1 Refer to General Comment No. 1 for a discussion of the benefit-cost analysis.

2 |

2. The non-binding uses that the Southern Utes have listed need analysis at this time. Certainly the air quality degradation of a coal power plant is clearly an environmental concern. The uses the Southern Utes came up with are essentially a wish list attempting to justify the need for the project. This further demonstrates the viability of the non-structural solution, thereby avoiding the degradation of the Animas River while meeting the needs of the tribe.

IN6-2 Refer to General Comment No. 6 concerning Indian water rights, future uses and conveyance facilities. The non-binding uses have been evaluated in the FSEIS. One of the potential uses by the Colorado Ute Tribes is the development of coal reserves on reservation boundaries. This potential use is considered to be non-binding and is presented as an example to which the Tribes could elect to use their water. At that time, future NEPA compliance would be conducted if warranted.

3 |

3. A detailed analysis of the impacts of the existing radioactive waste dump located 1/4 mile from the proposed Ridges Basin Reservoir needs to be included in the DSEIS. The DSEIS, volume 1, states in section 3.14.3.1.2 (page 3-222):

"Radioactive solids are contained in an UMTRA containment cell located about 0.25 mile outside the northeast arm of the proposed Ridges Basin Reservoir. The containment cell was installed as part of the remedial action for the Durango processing site described above." (Reference is to the cleanup of the old uranium processing plant; see sec. 3.14.3.1.1).

A limited and completely inadequate discussion of the impact of this radioactive site on the reservoir is contained in section 3.14.4.1.1 (page 3-225) which describes the impact as "less than significant" and states in relevant part:

"The DOE Remedial Action Plan, which addressed the potential for seepage from the disposal site, groundwater movement, and seismic stability, concluded that the proposed reservoir would not impact the disposal cell (1996 FSFES)."

The 1996 FSFES, Volume 1, sec. III-26, in turn simply concludes the water quality in the reservoir would not be affected by the radioactive waste dump, indicating the dump is in a "different drainage" and cross-referencing the same DOE 1990 report. This is clearly an inadequate exploration and delineation of the environmental impacts of the waste dump on the proposed reservoir and the public using the reservoir. Whether or not the dump is in a "different drainage" than the reservoir, it appears to be higher in elevation with a line of sight between the two. Could tainted groundwater beneath the dump find its way to the reservoir through geologic cracks, faults, etc? Could radioactivity from the dump impact the reservoir and its users in some other way? Can we expect a "remedial action plan" prepared by DOE for a no doubt necessary and urgent radioactive cleanup project completed many years ago to adequately address impacts on a reservoir which might or might not be built by a different Federal agency some time in the future? Does such a plan

IN6-3 In accordance with Uranium Mill Tailings Radiation Control Act (UMTRCA), the Department of Energy (DOE) began hydrogeologic investigations in Bodo Canyon in 1983 during the course of the tailing disposal site selection process. Disposal cell construction began in 1987 and remediation was completed in 1990. As part of the long-term safety and integrity monitoring for the disposal site, the DOE established the Long-Term Surveillance and Maintenance (LTSM) Program. The mission of the LTSM Program is to ensure that the disposal cell continues to prevent the release of contaminated materials to the environment. Groundwater is monitored annually to confirm cell performance. Based on testing for indicator parameters at the point of compliance (POC) wells, and the cell is operating as designed and constructed. A localized study of the groundwater regime in the saddle between Bodo Canyon and Ridges Basin has been performed by Reclamation. Groundwater movement under the UMTRA cell is to the southeast. Surface drainage also effectively isolates the UMTRA cell from the southwest to the southeast. The bottom of the cell is 7040 feet and the maximum water elevation of the reservoir is less than 6968, so that the reservoir will not effect the cell during reservoir operation.

INDIVIDUALS

constitute NEPA compliance for the future reservoir project? Surely Reclamation has an obligation to prepare its own environmental assessment at this time based on the situation existing at this time. For example, was the radioactive dump completed according to plan? Were any problems encountered? Has the situation changed since construction?

4 | 4. The project is growth inducing because it overestimates the municipal and industrial water needs, further evidence that the project is actually for the non-Indian interests in the area who have a vested interest in growth, rather than a project to satisfy the water rights of the Native Americans of the region.

5 | 5. Water loss from Ridges Basin will be substantial when compared to other dams, since this proposed reservoir will be very shallow due to topography.

6 | 6. The decision to enlarge the project to include recreation results in higher costs to U.S. taxpayers, costs which should be borne by the local area benefiting from such facilities. We understand that the size of the reservoir was recently increased by Reclamation solely to avoid local cost sharing requirements imposed by federal law.

7 | 7. At a time when dams are being demolished because of environmental concerns it just doesn't make sense to build a new one that creates environmental concerns.

We feel that the Ute's water rights claims can be satisfied in an environmentally sensitive way without depleting the waters of the Animas River and building a dam. We support Alternative #6, the Citizens Conceptual Alternative.

Sincerely,

  
Victor T. Bellerue

  
Sally R. Bellerue

IN6-4 Refer to General Comment No. 12 for a discussion of projected M&I water needs. Based on projected municipal needs of local communities and on-reservation needs by the Colorado Ute Tribes, the near-term (30-50 years) water needs in the ALP Project area would range from 90,000 to 110,000 af and the long-term needs would exceed 200,000 af.

IN6-5 Evaporation from Ridges Basin is projected at 2,235 afy (see Table 2-2 in Section 2.1.1). This is comparable to evaporation rates at the other reservoirs in the region.

IN6-6 The 120,000 af reservoir proposed in the Preferred Alternative includes a 30,000 af conservation pool to provide for sustaining a recreational fishery and addresses water quality concerns. The repayment of costs associated with this additional pool is addressed in Attachment E of this FSEIS.

IN6-7 Comment noted.

# INDIVIDUALS

IN7

Mark Belles  
9318 Willard Street  
Rowlett, Texas 75088

Pat Schumacher  
Four Corners Division Manager  
Four Corners Division of the Western Colorado Area Office  
835 East Second Avenue, Suite 300  
Durango, Colorado 81301-5475

15 January, 2000

Dear Mr. Schumacher,

Thank you for the copy of the Draft Supplemental Environmental Impact Statement (DSEIS) for the Animas-La Plata Project. Please retain my name on the mailing list for this NEPA process. Enclosed are my comments to the various alternatives described in the DSEIS.

1 |

Before commenting on the specific alternatives, I think it is important to examine the purpose and need of the project. The DSEIS states the origin of the Animas-La Plata Project is the Colorado Ute Indian Water Rights Settlement Act of 1988 (Settlement Act).

Paragraph 1.1 of the DSEIS acknowledges that the proposals to supply water to "other project beneficiaries (e.g., the Navajo Nation, the Animas-La Plata Water Conservancy District (ALPWCD), and the San Juan Water Commission (SJWC)" were not included in the scope of the project until the Administration Proposal of 1998.

**This is a vital point. Alternatives containing features that benefit the Navajo Nation, ALPWCD, and SJWC are not relevant to the fundamental, legal, purpose and need of the this project, the Settlement Act of 1988.** The Federal register notice of January 4<sup>th</sup>, 1999 exceeded the authority of the Settlement Act of 1988 and inappropriately expended the scope of this project to include other beneficiaries. When reviewing paragraph 2.3.3, Summary of Strengths and Weaknesses of Each of the Alternatives, the following fundamental fact must be kept in mind. Failure to address the inappropriately expanded scope of the purpose and need, that is, features that benefit users other than the Ute Mountain Ute and Southern Ute Tribes, are not deficiencies of an alternative. Paragraph 2.3.3 describes Alternatives that do not provide for the Navajo Nation, ALPWCD, and SJWC as "fatally flawed". These descriptions are pejorative and inaccurate.

IN7-1 Features benefitting the Navajo Nation, ALPWCD, and SJWC are relevant to the purpose and need of the ALP Project. The purpose and need states that the purpose of the ALP Project is "...to provide for identified M&I water needs in the project area" (Section 1.3). Water allocated to these entities has been a part of the ALP Project since its inception. Any alternative which does not meet the purpose and need statement is considered to be fatally flawed.

# INDIVIDUALS

With this analysis in mind, comments to specific alternatives follow.

**Alternative 10:** This alternative is the least desirable. The United States must meet its obligations to the Ute Mountain Ute and Southern Ute Tribes. The Settlement Act was negotiated in good faith to the benefit of the United States. It represents a water rights compromise that is in the best interests of the United States. It would be dishonorable to renege on the agreements of the Settlement Act.

**Alternative 9** fails to provide the water provided for by the Settlement Act and should be eliminated.

**Alternative 8** is undesirable because it requires two reservoirs.

**Alternative 6(a):** This alternative is completely impractical. The disruption to the local community resulting from the purchase of 27% of the irrigated land in the effected basins (including 83% in the La Plata drainage!) would be unacceptable.

**Alternative 6(b):** The loss of wetlands (1400 acres) and wildlife habitat (64,600 acres) is too high when compared to other options.

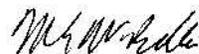
**Alternatives 1, 2, 3, 4, 5, and 7** all have scope beyond the purpose and need of the project, that is, the Settlement Act of 1988. None of these alternatives is desirable, however one must be chosen in order to meet the purpose and need.

21

In order to minimize impacts, the alternative calling for the smallest reservoir should be chosen unless a larger alternative is required to meet the purpose and need or to mitigate impacts. For these reasons I believe **Alternative 3** should be chosen, it represents the next-to-smallest reservoir, with an additional 15,000 af of storage to mitigate withdrawals from the Animas River during dry years. The additional storage is acceptable for the purpose of maintaining the spring flows of the Animas.

It is with great regret that I find myself supporting a new dam in the West. However our treaty obligations must be met, while preserving as much of the wild nature of the Animas as possible.

Thank you for the opportunity to comment,



IN7-2 Alternative 4 was selected over Alternative 3 because it better addresses water quality concerns, and provides for recreation in the reservoir. We have expanded the discussion on water quality associated with Alternative 4 in Section 3.3.4.

## INDIVIDUALS

IN8

**From:** "stacey bengtson" <staceywgl@hotmail.com>  
**To:** <ALPDSEISComments@uc.usbr.gov>  
**Date:** 2/19/00 4:53PM  
**Subject:** Animas River

1 | No Alp Dam project should be built on the Animas River!!!! Please choose Alt. #6!!!!!! Thank you!!! Stacey Bengtson

IN8-1 The structural component of the Preferred Alternative does not call for a dam to be constructed on the Animas River. Instead, the Preferred Alternative includes an offstream dam and reservoir at Ridges Basin; this reservoir would be fed by a diversion of water from the Animas River. The structural components of the Preferred Alternative are described in detail in Chapter 2. Refer to General Comment No. 15 for further discussion.

# INDIVIDUALS

IN9

Pat Schumacher  
Bureau Of Reclamation  
Suite 330  
835 East 2nd Street  
Durango, CO 81301-5475

## BLACK CREEK

January 15th, 2000

RE: Animas-La Plata

When I was a young man, I was sent to a place to be beaten for speaking my language. I was also beaten for believing the ways and things that my Elders had taught me. This place was a reservation school. The white people in that place made me say their prayers and recite back to them the litany, "My father is a drunkard, my mother is a whore, I am now a Christian and Apache nevermore". Unless I told them this lie, I would not be given my dinner. I could not get the others students to join me in fighting the white people and so I escaped. I was caught and escaped again and again. I never gave up.

One time, I escaped for almost a year. I was hidden with my people along the rivers and streams that once were ours, but had been stolen from us by the white people. These white people diverted the water and made ditches by rending our mother earth promiscuously for their gain and pleasure. These white people had many cows and horses, but none of these animals were happy in their pens and fenced fields. There was little water for these animals and even less grass for them to eat. Seeing the unhappiness of these animals, we set them free and took many of them with us.

It was that year, many years ago, when I learned the old ways. That was when I also learned that the white people take what they want and then they abuse or waste what they have taken. White people are evil.

I went back to those rivers and streams of long ago and I saw roads along their edge. I saw that the water is fouled from the cities that the white people build. I now see the coal mines that feed the power plants that poison the air. I remember the old days when this was not so. I remember the old days when our Elders could remember the wars against the white people. In those days, when we died, our bones and blood would be on the earth. Now the oil and gas wells that the white people have made, distort and harm that same earth. Is there no end to the evil that the white people will do. Is there no end to the tricks that the white people will play to make Navajo, Ute or Apache give up their water. Tell me when to trust the white people and that is the day that the white people want more.

1 |

Let the water run free. Let no white people have a single drop.

IN9-1 Comment noted.

*Black Creek*

Black Creek  
Aztec New Mexico

# INDIVIDUALS

IN10

4/5/00 402

Bureau of Reclamation  
815 East Second Ave, Suite 300  
Durango, CO 81301

To whom it may concern,

The Animas-La Plata water project is an ill-conceived, pork-barrel public subsidy which will benefit, mostly, non-Indians.

The use of Ute Tribes as a cover for this mess fools nobody. You can dress a pig in a tuxedo but it's still a pig.

I don't disagree that the Utes have rights in this case. However, the Citizen's Alternative addresses this issue in the least environmentally damaging way (funds to the 2 tribes to buy land and water on the open market). I'm for the Citizen's Alternative.

Sincerely,  
Bill Brooks  
1465 S. Clayton St  
Denver CO 80210

IN10-1 Comments noted.

1

January 25, 2000

Pat Schumacher, Four Corners Division Manager  
Four Dorners Division of the Western Colorado Area Office  
835 East Second Avenue, Suite 300  
Durango, Colorado 81301-5475

Dear Mr. Schumacher,

My biggest problem with your new Animas LaPlata Project Draft Supplement EIS is how you plan to measure whatever amount of water you plan to send down the Animas River for San Juan County, New Mexico.

I just drove down the Animas River on the county road from below your proposed dam site to the highway about where the Florida River joins the Animas. I saw a number of ditches along that stretch of river before the water you would let out of the reservoir would ever reach the New Mexico state line.

When we have a severe drought and need the water in New Mexico, won't a lot of it just evaporate or seep into the dry creek and river beds or be taken into those ditches before it ever reaches New Mexico? If you say no to that question, tell me how do you plan to stop those things from happening so that New Mexico's allotted acre feet of water actually cross that state line.

How will you be able to tell if New Mexico really gets all of the 20,800 acre feet of water that your draft supplement promises will be delivered here?

I didn't see anything in either volume of the new draft supplement about where the water that is let out of the reservoir for New Mexico will be measured or the place where you are planning to measure it. Will you really be measuring it? How? Where does it say that in the draft supplement?

I would appreciate your revising the document to make that very clear. Thank you.

Sincerely yours,



Manuel D. Brooks  
2900 Bloomfield Highway, # 3  
Farmington, New Mexico 87401

IN11-1 The measurement point for all project diversions will be at the point of diversion. The San Juan Water Commission water can be taken at several locations, depending on the point of use. Diversion points exist on the Animas and San Juan Rivers presently. The hydrology modeling assumed diversion of project water from the existing diversion points for Bloomfield and Farmington, New Mexico. Measurement would occur at those locations. Section 3.2.2 has been revised to clarify that all project diversions will be measured at the point of diversion.

1

# INDIVIDUALS

IN12

**From:** "Gregory A. Bruckbauer" <floater@frontier.net>  
**To:** <ALPDSEISComments@uc.usbr.gov>  
**Date:** Tuesday, January 25, 2000 10:35:55 PM  
**Subject:** Please Reconsider

1 |

Honorable Pat Schumacher,  
I am absolutely opposed to a diversion project on the free flowing Animas River.  
Please study and consider alternative #6.  
I hope we can let the front range have the prize for foolish and irresponsible taxpayer expenditures.  
Thank you for your attention regarding this important matter.  
Sincerely,  
Gregory A. Bruckbauer

IN12-1 Alternative 6, a non-structural approach to the ALP Project, has been evaluated and discussed in detail in Chapters 2, 3, and 5 of the FSEIS. Alternative 6 was modified to reduce environmental impacts and allow it to better meet the project purpose and need. This Refined Alternative 6 is also evaluated in the FSEIS. It was determined that both the original Alternative 6 and Refined Alternative 6 presented significant risks on the ability of the project to provide an assured water supply commensurate with the water rights established in the Settlement Agreement. Alternative 6 would seriously impact Indian trust water rights by using the remaining capacity of the Navajo Reservoir, thus creating a likely conflict with the Navajo Nation and Jicarilla Apache Tribe. Both Alternative 6 and Refined Alternative 6 also would cause more impacts to the environment than Refined Alternative 4 in terms of wetland impacts.

# INDIVIDUALS

IN13

Mr. Pat Schumacher  
Bureau of Reclamation  
835 East Second Avenue, Suite 300  
Durango, CO 81301

February 12, 2000

Mr. Pat Schumacher;

I am writing in reference to the ten alternatives to ALP. As a taxpayer of La Plata County who does not believe in excessive taxation, I would like to tell you my opinion. Pumping water uphill to fill a large reservoir in Ridges Basin is an overly expensive, inefficient use of tax money. It goes so far beyond meeting the Indian Tribes Settlement Agreement that it is absurd.

It is obvious that the evaluation process was not prioritized to settle Indian water claims, but was expanded to include recreation and a huge quantity of water for development. I strongly believe that this will be devastating to the quality of life of the Four Corners region.

As I am unable to attend the Durango Hearing on Feb. 15 to share my opinion, I wish to go record with the following:

- 1 | • The DSEIS shows clearly what ALP Opponents have long said; there is no legitimate use for the water. None of the suggested future uses justifies the enormous cost and environmental damage ALP will bring to our community.
- 2 | • The Bureau has mischaracterized the nonstructural alternatives and measured them against larger alternatives so they look as basic as possible. In reality, nonstructural alternatives are more practical, cheaper, and would be less harmful to the environment.
- 3 | • The great majority (70%) of the Indian portion of ALP water will supply power plants and coal mines. Almost all the remaining water will be sucked up by federally subsidized golf courses and resorts (16%). Only 2% satisfies Ute housing needs!
- 4 | • The Ridges Basin Reservoir would displace up to 800 elk and deer, and threaten endangered fish species and native bald eagles.
- The new ALP will cost US and Colorado taxpayers \$330 million. The Animas La Plata Water conservancy district will face \$12.5 million of up-front repayment costs. In addition, the City of Durango will have to spend \$5 million to build a pipeline to get the water back out of the reservoir.

IN13-1 Refer to General comment No. 12 for a discussion of future water needs in the area.

IN13-2 Refer to Section 2.3 of the FSEIS for the evaluation process of the alternatives considered.

IN13-3 Refer to General Comment No. 6.

IN13-4 Refer to Attachment E of the FSEIS for a summary of the anticipated cost sharing for the Preferred Alternative.

I, personally, cannot afford your new "scaled down" ALP as a middle class employee of a local non-profit in La Plata County the cost does not justify the benefits. I'm sure the majority of La Plata County residents are in my same shoes.

Sincerely,



Tecumseh Burnett  
2727 Mesa Ave.  
Durango, CO 81301

# INDIVIDUALS

IN14

March 30, 2000

Mr. Pat Schumacher  
Four Corners Division Manager  
Bureau of Reclamation  
835 East 2<sup>nd</sup> Street  
Suite 300  
Durango, CO 81301-5475

Dear Mr. Schumacher,

Nothing new can be said in this letter that has not already been said by thousands of others vehemently opposed to the current Animas-La Plata Project.

Therefore, let this letter merely stand as one more voice against this absurd, illegal, environmentally insane, socially criminal and just plain dumb project. Give the Ute's their water, do not destroy your river, my river and our children's Animas.

Please also pass on to Mr. Babbit my great disappointment in his position regarding this issue. He works to tear down dams and laments the building of many water projects and yet supports the stupidest water project to come out the government since we destroyed Glenn Canyon.

Sincerely,



Erich Bussian & Family  
10 Arrowhead Circle  
Durango, CO 81301

IN14-1 Comment noted.

1

# INDIVIDUALS

IN15

79

David Christenson  
2066 Eisenhower Dr.  
Louisville, CO 80027

APR 18 2000

April 16, 2000

Bureau of Reclamation  
815 E. 2nd Ave., Ste 300  
Durango, CO 81301

Re: ALP SEIS

Dear Mr. Schumacher:

1 | I oppose the Draft SEIS's preferred  
2 | alternative for the Animas-La Plata project.  
3 | As an alternative, I urge you to adopt Alternatiu  
4 | 6, as proposed by the Animas River Citizen's  
Coalition. In any case, the Draft SEIS is  
inadequate and does not meet the NEPA ~~require~~  
requirements. The Draft SEIS does not provide enough  
information to support informed decision making.  
In particular, the Draft SEIS does not identify  
actual needs for ALP water, ~~nor~~ Rather, the Draft SE  
relies on speculation to identify ~~actual~~ uses for  
ALP water. This is unacceptable given ALP's  
huge cost, and adverse environmental impacts.

The Draft SEIS also unreasonably discounts  
non-structural alternatives. The entire public  
justification for ALP is providing water to

(OVER)

IN15-1 Comment noted.

IN15-2 Comment noted. Reclamation respectfully disagrees with your conclusions about the adequacy of the EIS in meeting NEPA.

IN15-3 Refer to General Comment No. 7 for a discussion of speculative water uses.

IN15-4 An array of non-structural components were evaluated in the FSEIS (see Sections 2.3, 2.4 and 2.5) as alternatives to the several structural approaches also evaluated. The Preferred Alternative is a hybrid of structural and non-structural components that Reclamation feels best meet the Project purpose and need.

# INDIVIDUALS

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(con't)

the Ute tribes. The non-structural alternatives will provide real water to the tribes, and deserves thorough consideration. ~~The~~ Non-structural alternatives are cheaper and less environmentally destructive than the Ridges Basin reservoir.

5

Finally, the preferred alternative will reduce flows in the San Juan River. Because of endangered fish species habitat in the San Juan, further ~~devel~~ water withdrawals from the San Juan would be severely limited. This is likely to hurt the Navajo tribe by limiting their options for getting drinking water. Gallup, NM has a water supply problem. The Ridges Basin reservoir would effectively take water from the Navajo to give to the Utes. This is particularly absurd since ALP Ridges Basin water is apparently destined for non-Indian industrial & municipal uses.

6

In short ALP-Ridges Basin Reservoir is a bad idea, and the Draft SEIS does not justify the proposal.

Sincerely,  
*David Christenson*  
David Christenson

IN15-5 It is true that the Preferred Alternative will reduce flow in the San Juan River. However, modeling indicates that, with Ridges Basin Reservoir sized as described and the pumps operated to offset impact to meeting flow recommendations, the flow recommendations can be met with the structural alternative. This alternative leaves more water in the river for future Navajo demands than does Refined Alternative 6 which utilizes the existing storage capacity and water supply of Navajo Reservoir that would normally be available for uses in New Mexico.

IN15-6 Comment noted.

23 Jan 2000

Dear BOR,

I am writing with regard to Animas La Plata water project.

I understand that in a Draft Supplemental EIS your preferred alternative is to build a 120,000 acre foot reservoir in Ridges Basin.

1 | I urge you to consider other alternatives. Your  
2 | Alternative, in addition to disturbing wildlife such as the Colorado Pikeminnow and razorback sucker, will cost the taxpayers hundreds of millions of dollars.

There are less expensive and less environmentally harmful alternatives.

Please consider alternatives to the structural reservoir at Ridges Basin. Please consider Alternative # 6, The Animas River Citizens Conceptual Alternative.

Sincerely  
John Clark

John Clark  
796 Aspen Meadow Dr  
Evergreen, CO 80439

IN16-1 The Biological Assessment does state that the ALP Project "may affect" critical habitat in the San Juan River. However, as part of consultation with the U.S. Fish and Wildlife Service, a Biological Opinion has been developed that contains a Reasonable and Prudent Alternative to improve or eliminate these potential impacts. Please refer to Attachment G of the FSEIS.

IN16-2 Refer to General Comment No. 2 for a discussion of project cost.

# INDIVIDUALS

IN17

Ralph E. Clark III  
519 East Georgia Ave.  
Gunnison, Colorado 81230  
tel. 970-841-2907

April 12, 2000

Mr. Pat Schumacher  
Bureau of Reclamation  
P. O. Box 640  
Durango, Colorado 81301

Re: Comments submitted on the Draft Supplemental Environmental Impact Statement of the Animas-LaPlata Project, Colorado - New Mexico

Dear Mr. Schumacher:

Thank you for the opportunity to submit comments on the recent draft EIS prepared for the Animas - La Plata Project. My comments are made from my personal perspective and after study of the two volumes of the draft EIS and other relevant information. Page references below are to pages in the volumes of the document unless otherwise noted. Below are comments and an outlined alternative for consideration in the final environmental impact statement.

#### Comments:

\* Over many years, documents prepared on the Animas - La Plata (A-LP) Project for compliance with the National Environmental Policy Act have reflected a changing national perspective on development of water resources in the western states. The thoroughness of the detail presented in past documents, and this one, is commendable and sets a benchmark for other water development proposals. Provision of the appended material in Volume 2 is particularly very helpful. The pattern used for analysis of impacts in Chapter 2 (p. 2-21 - 2-24) becomes a familiar "road map" to the reader.

\* The expressed purpose and need for this most recent version of the A-LP Project (p. S-5) is to settle tribal claims and to protect junior non-tribal water users from possible consequences arising some time in the future from the exercise of more senior tribal water right claims. A second purpose is to provide a dependable long-term water supply for municipal and industrial uses in the region. However, the analysis of impacts was done in terms of posing a set of reasonable but "non-binding" future municipal and industrial uses. These are mostly for development on tribal lands but with the possibility of water being re-allocated from tribal to non-tribal uses and users (pp. S-5 - S-8, 2-1 - 2-8). The breadth and extent of the uncertainties for the A-LP Project addressed in this draft EIS appears contrary to general policies opposed to speculation in water resources expressed through the "water law" of both Colorado and New Mexico. It appears contrary to federal policies for water resource development. It also appears

IN17-1 Refer to General Comment No. 7 concerning the application of Colorado water law. The Principles and Standards referenced were a rigorous set of standards developed in 1973 for the analysis of large federal water projects. In EISs following the enactment of the Principles and Standards, federal agencies found that the standards were too stringent. Subsequently, the standards were modified in the 1980s and termed the Principles and Guidelines. These Principles and Guidelines provided significantly more flexibility in water resource planning. The approach used in this FSEIS for the analysis of alternatives is appropriate for satisfying the Colorado Ute Tribes' water rights claims and for determining potential environmental impacts and is consistent with the intent of the Principles and Guidelines.

1

- 1 | contrary to the degree of specificity sought many years ago in "Principals and Standards" guiding federal preparation and analysis of plans for water resource projects.
- 2 | Satisfaction of the special obligations under the Settlement Agreement and Act should not be mixed with more conventional water development in the A-LP Project. The most cost effective means for simply meeting the obligations under the Settlement Agreement and Act should be presented as an alternative and analyzed in the final supplementary EIS.
- 3 | \* Much of the analysis of environmental impacts is based on assumptions of required water diversions and depletions for uses ranging from livestock to golf courses to housing to coal mining to coal and gas fueled power plants (p. 2-9). However, these uses in the diversity of possibilities are assumed to deplete one-half of the amount of water diverted to the particular use. It is not a realistic assumption.  
  
More specific details are needed for each assumed use particularly when there is contemplation of large scale power generation facilities. Water requirements for power plants and associated development are available from many environmental impacts statements prepared during the 1970's and 1980's for energy projects in the Rocky Mountain states. Water requirements and consumption for domestic and municipal purposes in Colorado and New Mexico vary significantly in both directions from the assumed national average of 178 gallons per day per person used in the analysis (p. 2-8). Local figures should be obtained for tribal and non-tribal municipal and domestic water use. An assumption of an effective domestic and municipal water conservation program in the future should then be applied in determining estimated requirements.  
  
\* Construction and fueling of a 1000 megawatt coal-fired electrical power generating plant and a 200 megawatt gas fired electrical power generating plant (p. 3-203) imply a "boomtown" scenario for the Durango - Farmington region (p. 4-1 and elsewhere). In turn this implies a much greater population influx than contemplated in the "non-binding" housing projects or as indicated by projection of average population growth rates. The energy development future for the Durango - Farmington region was intensively studied in the later 1970's and early 1980's (see for example: White I. L. et al (1979) Energy From The West, Impact Analysis Report, Volume II: Site Specific And Regional Impact Analysis, prepared for the Environmental Protection Agency by the Science and Public Policy Program, University of Oklahoma and the Radian Corporation, National Technical Information Service, Springfield, Virginia and the included references). If such "non-binding" water uses in the nature of power generating facilities are to be considered, then their full implications for water resources should be addressed as well.
- 4 | Cost estimates given for the power generating facilities (p. 3-203) appear very low and the sources for these estimates should be referenced.

IN17-2 Refer to General Comment Nos. 1 and No. 2.

IN17-3 The FSEIS has been modified to include an expanded discussion of the assumption that depletions would average 50% of the diversions. The use of 178 gallons per capita per day is a realistic assumption for future water use in the area. At the present time, on-reservation tribal use is somewhat below this figure, but future lifestyles would increase on-reservation use of water. In a study by Gronning Engineering, the City of Durango used 200 gallons per capita per day to project its future water needs for larger users such as the golf course which is supplied with untreated water. In 1995, the City of Farmington reported using 274 gallons per capita per day. Other smaller communities in New Mexico have reported values lower than the 178 gallons per capita per day, but these lower values did not account for the significant amount of outdoor use supplied by irrigation ditches.

IN17-4 Comment noted. Energy costs are based on CRSP rates for the region.

5

\* The ten alternatives considered do not fully bracket the possibilities for water development within the region and the ways to provide for obligations imposed by the Settlement Agreement and Act. There are very significant uncertainties of how much water will be needed in the future, for what purposes, how it will be provided, and when. Given the many uncertainties associated with "non-binding end uses," yet another alternative - Alternative 11 - should be addressed in the final supplemental EIS. Its outline is as follows:

Alternative 11 Storage of Animas - La Plata Water In Navajo Reservoir

**Objective:** Provide water for storage in fulfillment of obligations to all Indian Tribes in the region in amounts contemplated for the preferred refined Alternative 4 (about 111,000 acre feet a year of diversion; p. E-32). Withdrawal of project water from the San Juan River would be below its confluence with the La Plata River at the site indicated for the upper end of the Navajo Nation Municipal Pipeline (p. 2-151). Project water would be pumped through a pipeline up the San Juan Valley for storage and subsequent management through the operations of Navajo Reservoir. Project water represents about one tenth of the capacity of Navajo Reservoir. Pumping it upstream for storage offers greater flexibility in future transfer and "re-allocation" of this water (Attachment D, Part 1). The additional water also offers greater flexibility in the operations of Navajo Reservoir. The Tribes receive storage of "real" water for their particular needs and purposes without destroying the natural flows of another river within the region. This alternative accommodates diversion to storage and management in Navajo Reservoir of the amount of water needed to provide the anticipated requirement in the preferred alternative for finding an additional 13,000 acre-feet of depletion.

**Design Consideration** The City of Durango appears uncertain as to its future need for project water from the proposed Ridges Reservoir, particularly if the cost of this project water is higher than other options. Under Alternative 11, the city could withdraw what it needs directly from the Animas River, as it does now, to augment its supplies. Project water for other "non-binding" demands can be provided by diversions to new pipelines similar to the proposed Gas-Fired Power Plant Lateral (2-131). These would convey project water released from Navajo Reservoir and picked up downstream from the San Juan River. The pipelines would convey project water to the specific location where it is needed. The number and length of these pipelines would likely be less and shorter than in the "non-binding" examples (pp. 2-125 - 2-131). These pipelines would likely be smaller in size and less costly because generally not much more than the amount expected to be depleted or consumed would be actually conveyed.

IN17-5 This FSEIS considers a range of reasonable alternatives. The alternative evaluation process included the alternatives evaluated in the 1996 FSFES, those identified by Reclamation in the January 1999 NOI, alternatives suggested during the February 1999 public scoping meetings, and a combination of the structural and non-structural components of all of these alternatives.

Estimated Cost - given in \$ million and based on project costs, pp. E-32 - E-33

Principal Features

2	"Durango scale" pumping plants operated in series to provide elevation head, friction head, etc.	\$53.6
1	Set - intake structure to pumping plant and outlet structure at Navajo Reservoir	\$5.6
45	Miles of 5.5 foot diameter pipeline generally placed along road right of ways.	<u>\$110.0</u>
Total		\$169.2

Engineering, design, legal, and contingency costs should not total 50% of the estimated cost of features (p. E-32). This alternative is simpler, straight forward, and easier to implement.

Annual operating costs (based on E-33): \$4.0

Summary of Impacts

Associated with Alternative 11

Aquatic	Little or no impact to existing flow pattern on Animas River. Potential to enhance flows on San Juan River when needed by providing more water to be managed by Navajo Reservoir.
Cultural	Same as preferred, area of disturbance generally confined to locations previously disturbed.
Hydrology	Accommodates flow requirements. Same amount is initially diverted for storage. Release for uses is generally closer to amount expected to be depleted, not twice expected depletion. The difference is available for management by operations of Navajo Reservoir to meet or enhance requirements for endangered fish recovery.
Recreation	No effect expected for rafting on Animas River. No new flat water recreation opportunity created near Durango.
Socioeconomics	Lower construction costs would reduce impact to local economy.
Threatened and Endangered Species	Enhances water quantity and flexibility available to Navajo Reservoir's operations for recovery of endangered fish.
Water Quality	Impact depends upon uses of project water and application of best management practices and exercise of control over discharges of pollutants.
Wetland	No loss of wetlands to new reservoir construction. Very little loss if pipeline route generally follows in the right-of-way for existing roads.

Wildlife	No loss of wildlife habitat to new reservoir construction. Potential for enhancement of riparian habitat on San Juan River.
Endangered Species Recovery	Diversion and intake structure designed as a broad crest weir allowing safe passage of endangered fish and also boaters.
Water Yield	Same water yield as preferred alternative (refined Alt. 4). Makes more water available for future Tribal development upstream and downstream of San Juan River's confluence with Animas River.
Reliability	Water supply is renewed by hydrologic cycle over a broader geographic area.
Location	Water released from Navajo Reservoir delivered for diversion closer to location of most anticipated future uses.
Practicality	Provides more water and greater control over it for the Settlement Agreement and Act and for meeting other obligations to Tribes within the region.
Indian Trust Assets	Would enable greater satisfaction of obligations by enhanced management and delivery capability to meet needs of all tribal interests.
Feasibility	This alternative is feasible and cheaper than the preferred alternative but would not provide the water desired for non-tribal development. Water provided from this alternative would be more attractive to users and easier to transfer. A portion of the energy requirement for pumping water upstream to Navajo Reservoir can be recovered as this water later passes through the electrical power generating turbines upon its release from Navajo Reservoir.
Development Costs	Less costly than the preferred alternative and may avoid much of the costs anticipated to acquire the additional 13,000 acre feet of depletion.
Operation, Maintenance, and Replacement	Estimated to be \$4.0 million a year based on more than doubling estimated operating costs for the Durango Pumping Plant. Estimated personnel costs may not be double.
Public Safety	Using a low broad crest weir for a diversion structure allows design for safe passage of boaters, endangered fish, and flood waters.
Impacts to Ongoing Operations	Would require changes to the operation of Navajo Reservoir but would also provide greater flexibility in reservoir operations. Would facilitate provision of flows on the San Juan for recovery of endangered fish species and to meet tribal obligations.

Please advise me if I may be able to provide additional information or further explanation.

Respectfully,

  
Ralph E. Clark III

# INDIVIDUALS

IN18

Steve Cone  
1217 Chaco Avenue  
Farmington, NM 87401  
505/327-0743  
A-LP Central website  
[www.angelfire.com/al/alpcentral](http://www.angelfire.com/al/alpcentral)

April 10, 2000

Pat Schumacher  
Project Director  
Four Corners Division Manager  
Bureau of Reclamation  
835 East 2nd Street, Suite 300,  
Durango, CO 81301-5475

Charles A. Calhoun, Regional Director  
Upper Colorado Region  
Bureau of Reclamation  
125 South State Street  
Salt Lake City, Utah 84138-1102

Eluid Martinez  
Commissioner  
Bureau of Reclamation  
18th & C Streets, NW  
Washington, DC 20240

The Honorable Bruce Babbitt  
Department of Interior  
1849 C St., NW  
Washington, D.C. 20240

Gentlemen:

As you well know, your extensive private Scoping with Animas-La Plata (A-LP) promoters illegally preceded the public Notice of Intent To Prepare a Draft Environmental Impact State for the Animas-La Plata Project; thus, undermining and corrupting the subsequent Public Scoping required within the National Environmental Policy Act (NEPA). Consequently, the paramount fear of the Bureau of Reclamation (BOR), the Department of the Interior (DOI) and your Administration should be that the patterns of collusion, fraud and incompetence which have

Cone Letter of Comment page 2 of 18

become hallmarks of the Animas-La Plata Project will be fully exposed to the American Public. Your 2000 A-LP Draft Supplement Environmental Impact Statement only serves to demonstrate the extent to which you are prepared to bend and even break the law to satisfy special interests at the expense of the environment and the Federal taxpayer.

1

According to BOR Project Team Leader, Ken Beck, the DOI Solicitor's "policy cut" prohibits February's Public Hearing transcripts from being distributed to the Public upon request. Don't the American People deserve unfettered access to the many compelling arguments and telling criticisms lodged against the Administration's "preferred" Refined Alternative 4 in Durango, Farmington and Denver? You had best revoke this policy of censorship of those important oral comments.

Regardless, please print and respond to my comment made in Farmington, NM, on February 16, 2000, here in your Final Supplement to the Final Supplement to the Final Environmental Impact Statement for the Animas-La Plata Project, as an addendum to the following written comments, which are intended to expand and extend the content of those oral remarks.

UTE CONFLICT OF INTEREST AS CO-LEAD IN DEVELOPMENT OF A-LP SEIS

2

What a way to run a railroad! How was it determined (and which one of you made the determination) that the Utes are competent to conduct an objective National Environmental Policy Act study on a Project pre-designed to directly and primarily benefit themselves? The fact is that the bid for this A-LP SEIS was never properly let, formally, through the Congressional Budget Office as required by law. Instead, BOR inappropriately invoked the Indian Self Determination Act (ISDA), inviting the Utes, with their attorneys and hand-picked self-service consultants to be paid to write their own ticket by controlling both the scope and content of this SEIS.

Nowhere does the ISDA envision empowering one tribe, with an exclusive vested interest in a particular outcome, to act as lead agency in conducting and directing a NEPA analysis in such a manner as to jeopardize the Trust Assets and real interests of other neighboring tribes and participants.

3

To date, you have completed no lawful, open or scientifically viable study within this process, and you have not recognized or addressed the need for unbiased, non-politicized data collection. As a result, this DSEIS

IN18-1 Comments received from the public and other interested parties on the DSEIS are included in Volume 3 of this FSEIS, as are Reclamation's responses to those comments. In addition, copies of the comment letters and the public hearing transcripts have been made available for the public's review at Reclamation's Durango office.

IN18-2 Reclamation is the lead agency in preparing the Supplemental EIS. As such, Reclamation has responsibility for directing the NEPA analysis associated with the project. The Ute Mountain Ute Tribe, exercising a provision of the 1988 Colorado Ute Indian Water Rights Settlement Act, contracted to Reclamation to provide assistance in many facets of the development and preparation of the FSEIS.

IN18-3 Refer to response to Comment IN104-2.

3 (con't) (like its predecessor) has been poisoned by conflict of interest and the Federal Government's deep-seated, codependent relationship with the Colorado Ute Tribes. But, no lie can live forever.

COSTS OF CURRENT SEIS FOR A-LP PROJECT

4 Estimated costs of this SEIS effort have been in the tens of millions of Federal tax dollars. Please provide an up-to-date accounting of all public funds expended to date in this version of an A-LP SEIS, showing records of payments to all firms, individuals and tribal governments. In addition, compare these costs to those associated with BOR's previous DSEIS.

DEAUTHORIZATION OF THE ANIMAS-LA PLATA PROJECT

5 Customary procedure calls for a BOR Project to gain Congressional authorization before undergoing NEPA scrutiny. Your Administration's unique A-LP "Ultralite" proposal (now known as Preferred Refined Alternative 4) has no such Congressional authorization. Therefore, it is inappropriate (not to mention absurd) for BOR's cart to be pushing the A-LP speculators' Indian horse up Capitol Hill in your DSEIS.

Clearly, without a "deauthorization clause" the Administration's Preferred Alternative cannot be fully or adequately evaluated in the current SEIS. BOR's Preferred Refined Alternative 4 does not envision or embrace a deauthorization of the full-fledged A-LP Project. Therefore, this second Final Supplement to the A-LP EIS is incomplete without an adequate analysis of the entire original Project, because any structural alternative involving a Ridges Basin dam and reservoir represents an irreversible and irretrievable commitment of resources to the full-blown A-LP Project.

Under Preferred Refined Alternative 4, and its companion legislative proposal HR3112, what absolute and incontrovertible safeguards exist to prohibit construction of the full-scale A-LP should water over-and-above the "environmental baseline" become available in the future?

SOUTHERN UTE RESERVATION HISTORY -- PRIORITY DATE

6 Interior Department Solicitor John Leshy's 09/09/99 studied opinion (Memorandum) notwithstanding, a dispassionate examination of the history of the establishment of the Southern Ute Indian Tribe's reservation (including the relevant 1971 Supreme Court decision) does not support the conclusion that Ute reserved doctrine rights date back to 1868.

IN18-4 This comment is outside the scope of the FSEIS.

IN18-5 Due to significant modifications to the ALP Project evaluated previously, this FSEIS provides additional environmental analysis to that described in both the original 1979 Environmental Impact Statement and the 1996 Final Supplement to the Environmental Impact Statement. These previous documents provide analysis of the entire original project.

IN18-6 Refer to General Comment No. 14 for a discussion of Reclamation's position on the water rights of the Colorado Ute Tribes.

Cone Letter of Comment page 4 of 18

Scare tactics, systematically employed by project promoters (including the BOR) have been carefully orchestrated to see to it that paranoia runs deep into the hearts of junior water rights holders and citizens within the Basin communities. You should step up to prove the legitimacy of Colorado tribal claims before supporting amendments to the 1986 Colorado Ute Indian Final Water Rights Settlement Agreement. (Please add the Department of Justice, a signatory to that '86 Agreement, to your "A-LP Mailing List").

1986 COLORADO UTE INDIAN FINAL WATER RIGHTS SETTLEMENT AGREEMENT, AND 1988 COLORADO UTE INDIAN WATER RIGHTS SETTLEMENT ACT

The Colorado Ute Indian Final Water Rights Settlement Agreement of 1986 was created, in large part, by A-LP proponents to promote and force building of the Animas-La Plata Project as opposed to determining the legal merit of highly questionable and possibly non-existent water claims.

A-LP is not an Indian-only project, but your currently "preferred" alternative has been reformulated covertly behind a tribal shield. Explain how it was determined that the affected public, junior water rights holders and other legitimate stakeholders would be excluded from the process of amending the Colorado Ute Indian Final Water Rights Settlement Agreement (CUIFWRSA), just as they were barred from participating in the original Settlement negotiations fifteen years ago. Such discriminatory policy and mistreatment of bonafide stakeholders is a violation of civil rights, a denial of equal opportunity under the law, and a compromise of our Democratic Process.

Page 7-9 at Table 7-2 shows both the "Final" Settlement Agreement and Act to be "Subject to amendment". What specific terms of the existing "Final" Agreement and Act under Preferred Refined Alternative 4 in the current DSEIS would be unfulfilled and in need of amendment?

The BOR has neglected to acknowledge in the DSEIS the partial release of documents to Earthjustice Legal Defense Fund related to a complaint in connection with the denial of a Freedom of Information Act (FOIA) request. That complaint cited DOI's illegal withholding of the substance of meetings arranged by the Federal Government for the purpose of secretly and exclusively amending the CUIFWRSA and privately and illegally controlling the scope and outcome of the current NEPA SEIS. DOI's (now) Deputy Secretary David Hayes, pointedly warned project promoters in these meetings that the Administration would be

IN18-7 Amending the Colorado Ute Indian Water Rights Final Settlement Agreement and the Colorado Ute Indian Water Rights Settlement Act of 1988 will require federal legislation. The process by which these agreements would be amended is an open public process. Until a Record of Decision is completed which will identify the selected plan for the project, it is premature to state what amendments need to be made to the Settlement Agreement and Settlement Act.

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uncomfortable with any references to tribal "entitlements". Is this because DOI knows that to speak of Colorado Ute "entitlements" is to invite a public legal examination of these Utes' reserved water rights under the Winters Doctrine, and risk exposing the yawning gap between the unjustifiable concessions to the Colorado tribes in that Agreement, and any legitimate rights those tribes could expect to realize through litigation?

As it stands, the Final Settlement Agreement fails to demonstrate a technical basis -- i.e., the Winters Doctrine -- for awarding such large quantities of water to these two tiny Colorado tribes, already so well-supplied and amply compensated.

Neither the Federal Government nor the Colorado Attorney General's Office will explain just how the original quantities in the Settlement Agreement were "fixed". Access to factual/technical irrigability studies and associated data through FOIA requests has been denied by the DOI, and the State of Colorado has refused Open Records requests to produce the W.W. Wheeler Report quantifying water supplies in southwestern Colorado.

If there is, in fact, no sound basis for the quantities of tribal water fixed in the Settlement Agreement, Preferred Refined Alternative 4 or HR3112, then it becomes most likely that what has really happened is that representatives of special interest groups have been given free rein to decide how to divvy-up a river.

It is evident that key terms of the CUIFWRSA have been abandoned, unconsummated. Pages 13, 22 and 33 of that Agreement all hold that, in such case, the Ute tribes may or may not be legally entitled to reserved water rights on the Animas or La Plata Rivers, as follows:

"Under no circumstances shall anything in this Agreement be construed as an admission, or be used by any party as evidence, that the Tribe is or is not legally entitled to reserved water rights on the Animas or La Plata Rivers. The project reserved water right shall have no precedential or presumptive value in the event the terms of this agreement do not become final."

These tribes' true entitlements remain unidentified, unproven,

Cone Letter of Comment page 6 of 18

unquantified and unqualified. The United States of America, the State of Colorado, and the Colorado Ute tribal leadership and their attorneys have demonstrated that they are bound and determined -- come hell or high water -- to avoid (at any cost) litigation, in all likelihood because the claims in question cannot be honestly substantiated.

COLORADO UTE DEVELOPMENT FUNDS

8

Why was the DSEIS written so as to mislead the Public about how an additional \$40 million "water acquisition fund" will be disposed of by the Colorado tribes? Page 2-124 allows for the money given the tribes to be used for "other economic development activities." But Page 1-8 specifies that any economic development with these funds (other than the purchase of land with supplemental water rights) must be strictly "water-related". Given this contradiction, account for precisely how the Public's money in this "water acquisition fund" would have to be used by the tribes.

IN18-8 Comment noted.

While you're at it, account for how more than \$60 million in Federal and State of Colorado monies allocated to these tribes under the 1986 CUIFWRSA have already been used, as well as how those funds were originally intended to be used. Furthermore, if any of those funds were expended to finance the purchase and subsequent removal of private lands from La Plata County tax rolls by reclassifying such real estate as non-taxable Indian Trust property, identify the properties, the costs and the extent of the resultant negative impacts to the taxpayers and residents of La Plata County. Also under the Preferred Refined Alternative 4 and/or its companion HR3112, would either or both of the Colorado Ute tribes be empowered to use such funding to purchase land with associated water rights in San Juan County, New Mexico?

COLORADO UTE TRIBAL WATER SUPPLIES

9

This A-LP DSEIS fails to identify the quantity of water the Southern Ute Indian Tribe currently derives from the Pine River Project supplied by the Vallecito Reservoir. A comprehensive public reckoning of all Colorado Ute tribal water assets available through Federal Projects is necessary in order to dispel the misconception, repeatedly advanced by tribal leaders and their attorneys, Senator Campbell, Representative McInnis and other A-LP promoters, that nothing has been done for these Utes, and that there is a critical water shortage on the Colorado reservations.

IN18-9 Comment noted. Table 1.1 in Section 1.2 of the FSEIS has been modified to clarify this information. See Section 1.2.

According to recent media reports, the Ute tribes of Colorado presently have access to upwards of 150k afy of wet water, most of which has been

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acquired through the past efforts of the Federal Government and is reliably provided via existing projects. Confirm or deny this figure with hard data, and present documentation of these tribes' beneficial utilization of their available water supply.

QUALIFICATION AND QUANTIFICATION OF COLORADO TRIBAL WATER

In the past, the Public has effectively been held at bay by project promoters' exaggerated estimates of the legal costs of litigation of Ute tribal claims to Animas and/or La Plata Rivers water. Surely, an accurate professional estimate of the likely costs of complete legal resolution of such claims can be made by some competent Federal agency. You and your staff could render the greatest public service to taxpayers at all levels by publicly defining the potential legal costs of all alternatives in the DSEIS -- especially the No Action Alternative #10.

10

Affirm or refute the contention that the Colorado Utes, through the '86 Final Settlement Agreement and '88 Act in combination with the Pine River, Florida, Dolores and Towaoc-Highline Canal, do already benefit from far more water than they would have ever hoped to receive through a court-determined priority date and Winters Doctrine entitlements. The years of hollow threats of unquantified water claims lawsuits should be directly confronted and dispelled by final judicial action, not dignified in an amended Final Settlement.

IN18-10 The discussion of the No Action Alternative, Alternative 10, has been expanded in the FSEIS, Section 2.3.2.

What is the legal justification for identifying certain allocations of Municipal & Industrial (M&I) water as non-reimbursable in several of the DSEIS alternatives?

Mr. Schumacher, A-LP Project Director, you stated in The Durango Herald in February, after the DSEIS Public Hearings, that all Colorado Ute M&I water in the BOR's Preferred Refined Alternative 4 is to be non-reimbursable. Just how is this to be accomplished in accordance with binding Reclamation finance law?

Most disturbing, perhaps, is the reality that civil servants and officials refuse to provide the Public with a factual answer to a very basic question, the answer to which is the whole rationale for the Animas-La Plata Project in its current configuration. The question is a simple one: What factual or technical information forms the basis of the original Settlement amounts?

The Colorado Ute leadership and their attorneys, with the support of their Federal Trustee, are apparently unable to prove-up their water rights

Cone Letter of Comment page 8 of 18

10  
(con't)

claims with hard data that will justify entitlements. Any legitimate tribal claims to reserved water rights in an amended Agreement should be identified through an accurate public quantification based on the standard of "practicably irrigable acreage" (PIA) and the Winters Doctrine. In light of the manufactured and perpetuated cloud of uncertainty which continues to shroud the issue of Colorado Ute tribal entitlements to Animas and La Plata Rivers water, the question should probably be addressed and resolved in a Court of competent jurisdiction.

COLORADO UTE TRIBAL REALLOCATION OF 6,010 AFY OF A-LP PROJECT WATER

In the DSEIS at ES-2, 2-2, and 1-7 footnote #3 may be found the following: "Comments received during scoping and in recent introduced legislation by non-federal parties (i.e. HR3112) indicate that the Colorado Ute tribes may agree to a reallocation of 6,010 afy to the State of Colorado and entities in New Mexico." Identify the contexts and individuals involved in the referenced comments. If no such comments can be verified with documentation, eliminate this statement altogether in the SEIS.

11

If you are able to verify such statements, the provision in the DSEIS for the Utes to "reallocate" their water is tantamount to payola, with their legal counsels' "other clients" conspiring to promote the Colorado tribes receipt of more water than the Winters Doctrine would justify in return for the agreed upon "reallocation". In effect, the Utes would function as an "off-shore" bank for water shares that could not be legally claimed by the Animas-La Plata Water Conservancy District or Southwest Water Conservancy District without showing legitimate beneficial use under Colorado water law or Colorado River Compact law. This defrauds by preemption in that the value of junior water rights to A-LP Project rights (whose owners could otherwise "beneficially" legally market their water for local uses) is greatly diminished. Using the same law firm for all of the parties involved, further exposes this conspiracy. And the involvement of various agencies of the United States Government in such activity could be ruled an illegal "taking".

What portion of the "reallocated" 6,010 afy would be relinquished by each tribe? Name all parties in New Mexico identified as potential recipients of these tribal "reallocations". Explain how such water would be beneficially used by those receiving entities, and how each New Mexico entity would demonstrate authority and ability to contract for such shifted Project water. Explain Colorado's plan for beneficial use and method for contracting for its share of this "reallocation" as well.

IN18-11 Comment noted. Section 2.1.1 has been modified to define water allocation of 6,010 af to the State of Colorado and the La Plata Conservancy District of New Mexico/San Juan Water Conservancy.

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How will the "reallocation" of this water to New Mexico entities comport with the Upper Colorado River Compact and its prohibition of water marketing between states? Would such "reallocations" from either of the Ute tribes to the Navajo Nation comply with existing law in view of these tribes' apparent status as sovereign nations?

UTE MOUNTAIN UTE TRIBAL RESERVATION LAND IN NEW MEXICO

12

A substantial portion of the so-called "Colorado" Ute Mountain Ute Reservation land is located within the State of New Mexico. How will an amended CUIFWRSA recognize and settle the Ute Mountain Ute claims to water rights in New Mexico? Cite all studies, including that of Keller-Bliesner Engineering, which sought to quantify PIA on Ute Mountain Ute reservation lands. Based on available information, what reserved doctrine rights do the Ute Mountain Utes have in connection with their New Mexico holdings? How might the fact that the Ute Mountain Ute Reservation spans two states affect the tribe's authority to move, utilize and/or market water across state lines?

Map 2-1 on Page 2-5 shows "Natural Gas Power Plant" on Ute Mountain Ute New Mexico reservation land. What would be the source of water for such a plant?

RIDGES BASIN GROWTH INDUCING IMPACTS

13

Page 2-117, in describing Preferred Refined Alternative 4, states that, "Operational parameters would allow for draw down below this minimum pool during some dry years." Identify the specifications of these "operational parameters". According to the above statement, Ridges Basin could be totally drained, resulting in unsightly residual mud flats. Define the term "dry years", and explain how it would be determined in which particular "dry years" such a "draw down" would be conducted and to what degree. Discuss how the relationship of evaporation loss to storage changes as the reservoir is drawn down.

Further, explain how such unrestricted "drawdown" would "likely have a minimal impact on the fishery within the reservoir." (2-117) Most fish don't do well out of water.

Page 4-1 states, "It is not likely that this type of development [i.e., new homes, golf courses, resorts, dude ranches] would occur without a reliable water supply and development fund provided by the A-LP project." This is most certainly debatable. If the Colorado Utes' claims to water rights are good, those rights are good forever -- with or without

IN18-12 In their present form, the Colorado Ute Indian Water Rights Final Settlement Agreement and the Colorado Ute Indian Water Rights Settlement Act of 1988 present the stipulations for a water rights settlement for the Colorado Ute Tribes only in Colorado. It is premature to speculate what may be included in an amended Settlement Act.

IN18-13 The targeted minimum pool content in Ridges Basin is 30,000 af. As operations were modeled for the period 1929-1993, the content dropped to about 26,000 af during one year prior to refilling the next spring. If future conditions mimic history, one could expect the reservoir to fall to as low as 26,000 af one year in 65. The actual minimum level allowed before water shortage would be declared and deliveries reduced would be an operational decision to be made in the future. However, it is expected that about 26,000 af would be the minimum. Reservoir evaporation is related to reservoir content as it affects surface area. This variability has been addressed in modeling to arrive at the average evaporation loss from the reservoir. It is assumed that future operation would be similar, on average, to that modeled. During the years before reservoir demand reaches its peak, the reservoir will be fuller and the evaporation higher. The value reported is for full development. The validity of the Colorado Ute Tribes' water rights is discussed in General Comment No. 14.

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the Animas-La Plata Project, and could safely be presumed to only increase in value (given market trends) with the passage of time. It is worth noting that the Southern Utes stand as one of the wealthiest tribes on earth, with a self-sufficient capacity to make large investments successfully and independently. If, as project promoters have contended so often, the Colorado tribes would prevail in Court with an 1868 priority date, and so have their claims upheld, no Federal porkbarrel project, A-LP or otherwise, would be necessary for them to realize their goals of future growth and development. Their notable reluctance to pursue litigation as a viable option to the long-standing A-LP impasse, lends credence to the conclusion that these exorbitant tribal claims are essentially baseless.

A-LP DSEIS "PREFERRED" REFINED ALTERNATIVE 4 AND THE LAW

BOR finds itself in a familiar dilemma. Your most currently "preferred" alternative -- Refined Alternative 4, does not comply with Federal or State law. Significantly, the Colorado Ute tribes are bound by the 1988 CUIWRSA to adhere to all applicable Federal laws. Where their sovereign status fails to provide them express immunity, they must also abide by laws of the State of Colorado.

14

Changes in qualification of water to these Utes, from agricultural water to M&l water, requires legal action in Colorado Water Court #7.

Colorado water law prohibits speculating in water or withholding water for speculative purposes, such as the current projected hypothetical non-binding use scenarios in BOR's "Preferred" Refined Alternative 4. Such speculation also represents a violation of the Upper Colorado River Compact, which holds that, "Beneficial use is the basis, the measure and the limit of the right to use." In BOR's Preferred Refined Alternative 4, many of the end uses for A-LP tribal water are pure pipe dreams, conflicting directly with provisions of the Clean Water Act.

Controlling State and Federal laws specifically preclude the sale or lease of water downstream. The BOR would be well-advised to cease all efforts to ride roughshod over the law, and instead begin to live within the letter and spirit of it.

Section IV(F)(1) Page 55 of the CUIFWRSA states:

"A change of water right shall be granted by the district court if the change does not increase the tribe's consumptive use or injure

IN18-14 Refer to General Comment No. 7 for a discussion of Colorado water law.

Cone Letter of Comment page 11 of 18

other water rights."

BOR's Preferred Refined Alternative 4 would directly violate both of these Settlement provisions, necessitating amendment to the Agreement and Act, and the adoption of damaging and contestable legal precedents.

15 | Note that Colorado's TABOR law now requires a plebiscite on any new debt obligation. How and when will such a referendum be accomplished?

Acknowledge here that BOR's DSEIS Preferred Refined Alternative 4 is incompatible with existing Federal and State statutes, and that your "preference" for Refined Alternative 4 bespeaks a boundless contempt for the law and an overriding commitment to special interests.

JEOPARDY TO NAVAJO NATION INDIAN TRUST ASSETS AND ENVIRONMENTAL JUSTICE ISSUES

16 | Contrast the Colorado Ute tribes' existing overabundance of water to the arid situation of the Utes' Navajo Nation neighbors. The Navajos have a population estimated in 1997 at 170,259 individuals (about 34,000 average families) living on their 26,897 square mile reservation. Unlike their Ute brothers, the Navajos can present concrete proof of the beneficial use to which twenty of their communities could put the water long promised them from the Navajo-Gallup Pipeline Project. But A-LP's currently fashionable "Preferred" Refined Alternative version denies sufficient water for that project. Your DSEIS fails to mitigate or compensate this extremely "significant" impact. Thus, the Navajos' Trust Asset reserved rights to water for the Navajo-Gallup Pipeline Project would be subverted by this A-LP configuration. In fact, the DOI with the Utes as co-lead are misusing this NEPA process to betray the Navajo Trust by denying these A-LP participants equal justice and opportunity to benefit from their legitimate claims.

It should be noted that the Navajo Nation's treaty dates to 1868, just as does that of the Utes. An obvious difference between these treaties is that the Navajos' historic right to water, with that priority date and in accordance with the Winters Doctrine, has never been the subject of controversy, whereas that of the Utes is insupportable. It is the Supreme Court's res judicata ruling against the Southern Utes in 1971 which absolutely bars them from winning an 1868 early-priority date in an adjudication. And, it is the basic human rights of Navajo people which are jeopardized by terms of the latest A-LP version and by Colorado Congressman Scott McInnis' HR3112.

IN18-15 The Colorado Constitution, Article X, Section 20 ("Tabor"), requires an election for an increase in the mill levy by a state or local governmental entity. Should the ALPWCD repayment obligation exceed the ALPWCD's ability to repay, optional payment options may have to be applied. This a decision that the ALPWCD will need to make.

IN18-16 The Preferred Alternative now being evaluated under the NEPA process would provide the Navajo Nation with 4,680 af of water and construct a new municipal pipeline to Shiprock, New Mexico. The Navajo Nation has shown support for the project. Reclamation recognizes the need for additional water to supply domestic needs on the Navajo reservation. Study coordination, planning and technical assistance is being provided to facilitate and move ahead with feasibility studies and environmental analysis in FY2000 and FY2001 on the Gallup-Navajo Water Supply Project. A schedule has been developed with an anticipated Environmental Impact Statement completed and a Record of Decision obtained by September, 2001. Refer to General Comment No. 14 concerning the validity of the Colorado Ute Tribes' water rights claims.

NO ACTION ALTERNATIVE #10

Junior water rights holders and others who have been bluffed, cowed or bought by the BOR, DOI and various A-LP promoters for years, deserve all the facts about potential outcomes of negotiation or litigation of tribal doctrine reserved water rights in the event no action is taken on A-LP.

The BOR's treatment of the "No Action" Alternative 10 is woefully inadequate, as it avoids any serious exploration of possible outcomes should the Colorado Ute tribes choose to either renegotiate (which they evidently have already been doing) or litigate their reserved doctrine rights to water from the Animas and La Plata Rivers.

If the reckless and arbitrary projection of multiple hypothetical scenarios is within BOR's power, then it is certainly "possible to predict" various potential outcomes of litigation. If the Bureau is ready, willing and able to accommodate Project promoters by concocting such non-binding use scenarios, then the BOR must, by the same token, speculate with regard to the impacts associated with an abortion of the A-LP Project. Junior water users, concerned citizens and Federal taxpayers are due more than the dodge in this Draft or BOR's time-worn tactics of intimidation.

In fact, given the well-established pattern of deceit and collusion associated with the A-LP Project, an honest estimate of the overall cost of litigating the tribes' water rights claims, might well identify adjudication as the most effective and cost-efficient solution.

In any event, the \$85 million squandered by BOR to date on A-LP leaves no doubt that it is high time to stanch the continued ritualistic bleeding of Federal funds to this Project.

Since neither the Federal Government nor the Ute tribal leadership and their attorneys can bring will divulge the contents of technical, factual documents prepared at taxpayers' expense, the process of litigation appears necessary to protect the public purse and ensure an accurate and just determination of the tribes' actual entitlements.

REPAYMENT

The San Juan Water Commission (SJWC) has publicly declared that its sole monetary obligation for reimbursement in A-LP's Refined Alternative 4 version, is a one-time lump sum payment of exactly \$13,254,000. Confirm or deny this assertion. Where and how did SJWC obtain this cost-sharing figure, and where in the DSEIS does one find this purported

IN18-17 The No Action Alternative discussion in the FSEIS has been modified at Section 2.3.

IN18-18 Attachment E of the FSEIS provides a summary of the cost sharing expectations from the project beneficiaries. These allocable costs will require negotiations with the affected parties; such negotiations will be carried in a public forum.

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agreement regarding lump sum repayment? How and when will a new cost-sharing agreement be formulated? Why has DOI engaged in the private negotiation of A-LP repayment terms so as to conform with the the McInnis legislative proposal, HR3112?

It is a key provision of Reclamation law which requires that M&I water development costs must be repaid in full with interest by Project beneficiaries. Yet, if your statements are to be taken at face value, Mr. Schumacher, the tribes' shares of construction costs for Preferred Refined Alternative 4 are wholly non-reimbursable. So, why not totally subsidize all other Project beneficiaries' shares as well? Let's go whole hog and provide free infrastructure for everyone -- come one, come all. Let the good times roll.

Page E-44 states, "Project beneficiaries will be responsible for paying Federally funded portions of the Project and associated operation, maintenance and replacement according to Reclamation law." Please answer "yes" or "no" to the following questions: Are the tribes' considered beneficiaries within the Preferred Refined Alternative 4? Are the Secretary of the Interior, his staff and his Administration undeniably and irrevocably committed to abiding by the Reclamation Project Supply Act of 1939 (53 Stat. 1187) and the Water Supply Act of July 3, 1958, (72 Stat. 319) to protect the investment of the United States in the Animas-La Plata Project? If "yes", why, Director Schumacher, are you publicly stating that all A-LP tribal allocations will be non-reimbursable to the Federal Treasury? If "no", explain why not.

How are SJWC's and all other project beneficiaries' repayment contracts (including the tribes' [if the BOR chooses to follow the law]) to be renegotiated for the new A-LP configuration known as Preferred Refined Alternative 4? When will the necessary new elections be called on these contracts, which require that taxes be levied and funds appropriated for a completely different project?

NEW MEXICO'S WATER

19

What provision (if any) is made in BOR's Refined Alternative 4 for the transfer of Reclamation-held Permit #2883 to the San Juan Water Commission or New Mexico Interstate Stream Commission, and to what extent might such a transfer impact the Navajo Nation's ability to fully exercise its 1868 priority doctrine reserved water rights and utilize its other Indian Trust Assets (ITA's) in the San Juan Basin?

How will the BOR go about identifying and measuring the water to be

IN18-19 There is no provision for transfer of permit #2883 to the SJWC included in Refined Alternative 4. The impacts of such a transfer have not been analyzed. SJWC deliveries will be measured at their diversion point from the river. Since the river surface area changes very little to carry this extra water, there is assumed to be no increase in evaporation. Seepage also would not change significantly. Senior water rights holder diversion requirements are met first in the model. The potential problem of a senior water right holder over-diverting would affect timing of deliveries but not the long term average amount, since their depletions are always met. Therefore, their extra diversion would eventually appear as return flow and not depletion.

Cone Letter of Comment page 14 of 18

sent down the Animas River for San Juan County, New Mexico? BOR's Preferred Refined Alternative 4 neither demonstrates nor describes the method by which such measurement will take place.

Where will New Mexico's water allocation be measured? ...or will it? For New Mexico releases from Colorado's Ridges Basin in dry years, quantify how much of San Juan County's water would be lost to evaporation and/or seepage in transit.

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(con't)

How much of this New Mexico A-LP water might be jeopardized by Colorado senior water rights holders' diversions if it is left unprotected between the dam outlet and the New Mexico state line?

Is the State of New Mexico or any other entity in New Mexico envisioned as a signatory to an amended CUIFWRSA? How about the Navajo Nation? No New Mexico entity is signatory to the 1986 Settlement Agreement. Yet, DOI continues to hold New Mexico communities' rights hostage to A-LP -- demanding unconditional support for a fundamentally-flawed Project as a prerequisite to obtaining water which is the rightful and real property of New Mexico cities and rural water districts. You must return this water to these New Mexican entities immediately, to be used in New Mexico with no strings attached.

(By the way, The Department of Justice (DOJ) does not appear to be on your A-LP mailing list, despite the fact that they are signatory to the '86 Agreement, which BOR now cites as in need of amendment. Provide DOJ with the DSEIS & SEIS.)

NAVAJO NATION MUNICIPAL PIPELINE (NNMP)

20

What part does the \$26 (\$50?) million Navajo Nation Municipal Pipeline (NNMP) play in the upcoming Navajo Nation water claims settlement? How is the NNMP being used as a carrot to buy Navajo leaders' support for an Animas-La Plata Project which is injurious to the real assets of thousands of Navajos in the Eastern Agency?

Where will the Navajo allocation of A-LP water be stored before treatment at Farmington's municipal water treatment plant? How will this Navajo Nation A-LP allocation-storage impact the Farmington Lake reservoir's capacity and facilities? What is the status of the Environmental Protection Agency's (EPA) permitting of the proposed expansion of the City of Farmington's treatment plant? (Incidentally, in the DSEIS on J-2, the EPA is listed as part of the DOI. How and when were they co-opted, or is this simply wishful thinking on your part?)

IN18-20 It is premature to assume that the Navajo Nation Municipal Pipeline will be a component of any water rights settlement with the Navajo Nation.

21 On Page 2-3, BOR states that, "Water could also be stored in Navajo Reservoir for SJWC uses." How much water might be stored in Navajo Reservoir for the San Juan Water Commission? In like fashion, might water be stored in Navajo Reservoir for the Navajo Nation's A-LP allocation? If A-LP were to be deauthorized, what storage could then be available in Navajo Reservoir for New Mexico water associated with Permit #2883 (now being held by BOR)? Since Reclamation has identified available storage in Navajo Reservoir, how much of that storage might be made available for any Colorado Ute tribal entitlements?

DIVERSIONS VERSUS DEPLETIONS

22 What kind of shell game is BOR working in converting diversions to depletions? What formula or formulae is/are used in the DSEIS for the depletion to diversion calculations? Explain the scientific principles or rationale utilized to fix this ratio of depletion to diversion.

Does a generally accepted, conventional formula for such conversions actually exist? If so, why is such a formula not consistently applied in the current DSEIS, and, in particular, why are there such gross discrepancies between 2-23 and Table 2-53? If not, why the crapshoot?

Please note that the 1996 SEIS diversion/depletion tables show return flows as factors, but the current DSEIS shows no such return flow figures in corresponding tables. Explain why. At Page 4-19 BOR's discussion of depletion/diversion ratio is non-existent and the numbers shown are not supported or verified anywhere in the DSEIS.

KHAROL STEFANEC PUBLIC INVOLVEMENT REPORT -- 1985

23 When will an updated and truly neutral study and survey of Project-area public attitudes and concerns about the political, social and economic impacts of the A-LP Project be conducted and made available to the Public? This is long overdue, particularly in light of the your efforts to suppress, and subsequently disavow all knowledge of then-Bureau employee Kharol Stefanec's interviews and report, which (ironically) had been initiated to fulfill requirements that the BOR develop and maintain a Public Involvement File for A-LP?

CONCLUSION

In forcing your "preferred" alternative through the DSEIS you are demonstrating malice aforethought and criminal intent. Reclamation and

IN18-21 The amount of water that could be stored for the SJWC in Navajo Dam has not been computed. The analysis for Refined Alternative 6 indicates that there would be sufficient water to meet the SJWC demand from a combination of available flow in the Animas River and releases from Navajo Dam, but the precise split between the two sources has not been computed. Refined Alternative 6 indicates that the water for the Navajo Pipeline may also be provided from a combination of these sources, although Refined Alternative 6 includes retirement of land on the Pine River for a portion of the downstream water requirements. Since modeling has not been completed, it can only be qualitatively stated that there may be enough capacity in unused river flows and reservoir releases to meet the two demands. However, such releases would diminish the ability to meet the future ITA demands.

IN18-22 There is no fixed depletion/diversion ratio. Each project has an estimated ratio based on the assumed end uses and the amount of return flow anticipated for that end use. For the FSEIS, a representative 50% depletion/diversion ratio is assumed. A discussion on the 50% ratio has been included in the revised text in Section 2.1.1. This is often referred to as the project efficiency, the difference between diversion and depletion being project return flow. This 50% ratio is consistent with general M&I water planning principles where the actual end uses are not known, but only speculated. Since the difference between diversion and depletion is returned to the system, the basin outflow is not altered by the use of a different ratio, other than in timing. Flow in various tributaries and river reach is affected, however. Also, the sizing of conveyance and storage facilities are affected.

IN18-23 A thorough and complete public review process has been undertaken for the ALP Project Draft and FSEIS. Please refer to Section 6.3 of the FSEIS which describes the consultation and coordination activities conducted for the project.

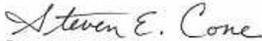
# INDIVIDUALS

IN18

Cone Letter of Comment page 16 of 18

the Department as a whole, in this DSEIS, documents incompetence and a contempt for its own guiding laws and principles. Anyone examining the DSEIS objectively will conclude that BOR's support for Preferred Refined Alternative 4, and its attendant HR3112, is stained with injustice and tainted by a repudiation of your controlling Federal Statutes. You should have learned by now that no lie can live forever.

Sincerely,

  
Steve Cone

[addendum follows -- Public Hearing Comment, 2/16/00, Farmington, NM]

Cone Letter of Comment page 17 of 18

submitted addendum for inclusion as written comment on A-LP DSEIS

CONE'S ORAL COMMENT: FARMINGTON, NM, 16 FEBRUARY, 2000

No federal funds should be expended on any A-LP 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 attempt to negotiate amendments to the Colorado Ute Indian Final Water Rights FINAL Settlement Agreement must be open to the public and all affected parties. The closed-door-negotiation meetings being held by now Deputy Secretary Hayes and others in the Administration and Interior with the Ute tribal government officials and non-Indian A-LP promoters are illegal and inappropriate.

That the Ute tribes with their Trustee are being exclusively allowed to oversee the assessment of alternatives to a structural project concept to which they are publically and irretrievably committed, is an inexcusable perversion of the National Environmental Policy Act. 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 a Ridges Basin structural alternative confirms their inability to develop a fair and uncompromised end product.

Both the Administration and Congress need to know that the tribal need for more water is a fantasy, created to build one more massive water project for the speculative interests of developers, with the tribal leaders playing their roles as frontmen. This Nation's trust responsibility to provide water to the tribes does NOT include building golf courses, dude ranches, powerplants and casinos. It does NOT include buy-outs, pay offs, 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.

The Dolores, the Pine, the Florida, the Towaoc Canal -- it is no secret that the tribes are ALREADY awash in water from existing Federal projects. Together, these two relatively small Colorado tribes already control upwards of 150 K AFY of water representing a potential annual income of \$150 million if they were permitted to lease downstream.

The premise of the stated purpose of 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

Cone Letter of Comment page 18 of 18

quantities of water to the Colorado tribes (if it exists at all) is being concealed by the Department of the 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 law. One way or another, your supplement should provide a factual answer to a very basic question -- the answer to which is the whole basis to the project. The question is a simple one: "What factual or technical information forms the basis of the settlement amounts?"

To date, this remains the best kept secret -- that the Utes entitlements have not been defined and any information necessary to accurately assess the tribes' reserved doctrine rights is being unlawfully withheld. Men of integrity would long ago have shown the basis for these tribal claims. But all we have is a stonewall 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 bonafide stakeholders, is most objectionable. 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. The merit of tribal claims to entitlements of Animas and La Plata river water have not been (and evidently cannot be) demonstrated. So the years of threats of unquantified-water-claims law suits should be directly confronted and dispelled by final action. This must be effected through thorough assessment of the NO ACTION ALTERNATIVE.

Your draft treatment of the NO ACTION ALTERNATIVE #10 is suspiciously inadequate. If the projection of hypothetical non-binding scenarios for tribal water use is so easily accomplished, then certainly it is possible to predict potential outcomes of negotiation or litigation. Analysis of the NO ACTION ALTERNATIVE must include a realistic assessment of the likely costs of litigating the Ute tribal 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 final analysis, litigation as a means to determine the legitimacy of tribal claims may be the most honest and inexpensive way to resolve the issue of A-LP.

SINCERELY,



Steve Cone

cc: Janice Reno, Attorney General, Department of Justice  
David Hayes, Deputy to the Secretary of the Interior

# INDIVIDUALS

IN19

April 16, 2000

Pat Schumaker  
Bureau of Reclamation  
835 E. 2<sup>nd</sup> Ave. Suite 300  
Durango, Co. 81301

Dear Mr. Schumaker:

1

I am writing to offer my perspective on the *Animas La Plata Project: Draft Supplemental Environmental Impact Statement*. After reviewing the document I am angered that the Bureau did not put more thought into alternative proposals which promote **purchasing water rights**. I think this is the best strategy to satisfy the Colorado Ute Indian Water Settlement Act of 1988.

2

The proposal to store water in Ridges Basin with only speculative uses violates the Colorado River Compact. The summary of municipal and industrial water uses listed on page S-7 of the draft document is violating the Colorado River Compact. The Compact states that water cannot be held that is not reasonably applied to domestic and agricultural uses. The list of future uses shows that most of the water is designated for recreational and industrial uses.

As stated in the opening paragraph I think that the Colorado Ute tribes water needs can be met by purchasing existing and future water rights. Having lived in Dolores during and after the McPhee reservoir project, I believe that large scale dam projects do not improve the quality of life for residents.

Sincerely,

Marjorie Connolly  
P. O. Box 962  
Dolores, Co. 81323

IN19-1 Comment noted. Considerable analysis was put into developing non-structural components of alternatives which involved purchasing land and water rights as part of a process to meet the obligations of the Colorado Ute Tribes. This discussion is included in Sections 2.4.1, 3.3.1, 4.6.4 and 5.2 of the FSEIS.

IN19-2 Refer to General Comment No. 7.