

SANTA FE COUNTY

SPECIAL MEETING

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BOARD OF COUNTY COMMISSIONERS

February 15, 2001

This special meeting of the Santa Fe Board of County Commissioners was called to order at approximately 10:15 a.m. by Chairman Paul Duran, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Roll call indicated the presence of a quorum as follows:

Members Present:

- Commissioner Paul Duran, Chairman
- Commissioner Paul Campos
- Commissioner Javier Gonzales
- Commissioner Jack Sullivan
- Commissioner Marcos Trujillo

Members Absent:

None

Other Elected Officials Present:

- Becky Bustamante, County Clerk
- Philip Trujillo, County Treasurer

County Staff Present:

- Sam Montoya, Manager
- Douglas Sayre, Director of Utilities
- Estevan Lopez, Director of Land Use and Utilities Department
- Jack Kolkmeier, Planning Director
- Roman Abeyta, Deputy Land Use Administrator
- Leonard Quintana, Utilities Supervisor
- Steven Kopelman, General Counsel
- Paul Olafson, Planner
- Judy McGowan, Senior Planner
- John Utton, Contract Water Counsel for Santa Fe County
- Katherine Yuhás, Hydrologist

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Welcome Comments: Chairman Duran

Chairman Duran thanked the audience and panelists for attending. He said the meeting would prove to be very interesting and hopefully result in a vision and goals reflecting the community's needs.

He mentioned that after Commissioner Sullivan and Commissioner Campos took office, he asked the county manager to put together this summit in an effort to re-establish the visions the Commission adopted over the last four years. Concluding his remarks, Chair Duran reiterated that with the input from the community and experts in the field, "we can all arrive at a common goal and vision of how we want to proceed with our current water situation."

Ground Rules: Facilitator Carl Moore

Mr. Moore outlined his responsibilities for this special meeting, which include time keeping and facilitating the latter part of the day. He reviewed the agenda: Define the County's current water issues including partnerships, and create an action agenda to achieve the County's goals for water. During the morning session, staff will brief the Commissioners about the County's water issues. Following the briefing, the Commissioners will establish the relative priorities of the actions as identified by staff to develop the County's water system. The proposed outcome of the briefing and goal-setting activities will be the development of an action agenda to provide staff with clear direction of time allocation and priority choices regarding the County's water system.

Mr. Moore said the Board of County Commissioners would make all decisions with the staff serving as a resource pool. He said he would help in working through the action agenda. Time was allocated at the end of the meeting for public participation.

Summit Purpose

County Manager Montoya said this summit was called to discuss the paramount issue facing the community: Water. Many water issues from transfers, partnerships, conservation, management, etc., require full investigation by the Commission before ascertaining priorities to efficiently and effectively utilize the County's resources.

Mr. Montoya highlighted the initiatives that the County has participated in over the past few years regarding water. Pointing to two 18-inch stacks of reports, Mr. Montoya said they represent the research projects regarding water over the past few years and he provided a review of each.

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- Jemez y Sangre Study: An ongoing regional study to identify resources and demand over the next 60 years.
- The Santa Fe County Resource Water Inventory: Completed in 1997 by Stephens, it provides an inventory of Santa Fe County hydrologic water resources.
- Rancho Viejo Basic Hydrology Study: Conducted by Bellew Groundwater in 2000 to identify hydrology within Rancho Viejo boundaries.
- The Boil Report: Engineering report commissioned in 1997 by the City and County to analyze surface diversion options from the Rio Grande.
- The San Ildefonso Ranney Collector Facility Environment Assessment: Commissioned by the City and County in 2000 by Lewis Burgger to view the facility.
- TAP Water Study & Independent Inventory Water Supply Options for the City of Santa Fe: Prepared in 2000.
- Estancia Basin Planning Committee: Prepared by Corbin Consulting in 1999 to identify water resources and demands over a 40-year period in the basin.
- Harza Report: Prepared for the Santa Fe Metropolitan Water Board in 1989 to identify water supply options for the Santa Fe Metro area over a 40-year time frame.
- Northern N.M. Water Quality Task Force: Regional task force that completed an initial study in 1988 identifying water quality problems and possible solutions for northern Santa Fe County and southern Rio Arriba.
- The City of Santa Fe Water Supply Alternative Study: An RFP was issued to evaluate short- and long-term optimal water supply alternatives.
- The TEMP Study: The treated effluent management plan conducted for the City in 1999.

Mr. Montoya emphasized that he outlined only a few of the water studies. He recommended that an action plan be developed from the information provided in the studies.

Mr. Montoya informed the participants that a decision in the *Aamodi* case is reaching a conclusion on aboriginal water rights and how tribal governments can utilize water resources in the future. He said the County signed a permit with the San Ildefonso Governor allowing the Ranney Collector project to move ahead for the initial study.

Presentation: Tom Turney, State Engineer
[Mr. Turney's remarks verbatim]

"Mr. Chairman, members of the Commission, I'd like to thank you all for inviting me here to talk this morning. I just finished writing out my comments as I sat in this room – it seems like my days are extraordinarily busy these days with the State Legislature going on plus it just seems like so much activity is occurring in water issues across the State.

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“Santa Fe County covers a lot of area. There are numerous water issues. Santa Fe County is one of the most complex counties in the State of New Mexico. There are a multitude of surface water issues and ground water issues. Because of the complexity of the issue, the County has my deepest respect. It is refreshing to be here this morning and see the County’s willingness to address these tough and hard issues that it will face. This morning I’m going to cover a lot of territory. I will cover the City of Santa Fe because it is within the County; the Pojoaque/Nambe/Tesuque area; the *Aamodt* decision; Eldorado; Estancia Basin; and I’m also going to touch on domestic wells.

“Santa Fe County is growing. There is one thing that many people forget: New Mexico is basically a desert. There are only finite waters available for people to use. Not everyone can have all the water they want. This basic principle was recognized 400 years ago when the Spanish government settled New Mexico. This is why the State Constitution set up a unique way of administering water in the State. The system is called “a prior appropriation system.” People that have senior water rights get the water in the time of a drought; junior appropriators get cut off. This actually happens, and we cut it off at the Chama River this summer, the junior appropriators. And I will just tell you that it is a very unpleasant personal experience.

“The County has to make sure that it has adequate water rights to guarantee its future. For the last few weeks I’ve been focusing on the City of Santa Fe and development of their San Juan-Chama water. I’m going to briefly tell you my concerns. The City of Santa Fe’s water supply is in a precarious position. This past summer the City about ran out of water. The reservoirs in Santa Fe Canyon basically went dry. I believe they had 20 or 21 percent water left in them. And pumping production at the Buckman well field has been for a number of years gradually declining. To get the City through what we saw could easily have become a crisis situation, we did grant emergency approval for the temporary use of a well located in the northwest sector of the City. If Santa Fe should ever run out of water, it is going to hurt everyone in this room, both in the short term and in the long run. Without water there can be no life.

“Santa Fe has two problems. The City does not have an adequate source of water and the City does not have adequate water rights. Neither of these problems is new. They have been discussed for years. I know the City’s water system. Thirty years ago, I personally designed, along with the County Engineer, Doug Sayre—actually, Doug may have designed even more than I did. I designed two of the deep wells at Buckman. I have walked every foot of the Buckman water line from the Rio Grande to where it ties into the City’s water system just above the Casa Solana Subdivision. Buckman, in case you aren’t familiar with its exact location, is located adjacent to the Rio Grande. You

can get there by driving from the Casa Solana Subdivision northwest about 15 miles along the old Buckman Road. Buckman used to be a lumber loading point on the Chile Railroad Line that ran from Espanola to Santa Fe.

“It was never the intention to allow the Buckman well field to be Santa Fe’s permanent water source. Thirty years ago, it was known that the City had to take its San Juan-Chama water directly from the river. I believe about \$250,000 has been paid each year to reserve this water for the City’s future use. But for a number of reasons, the City has not placed this issue on the front burner. Instead, it would appear that the issue has almost become forgotten, although in the last 45 days it certainly surfaced. Right now, the City places a tremendous reliance on the Buckman well field. Over the next few years, the City needs to discontinue uses of this well field except for pumping or peak uses.

“Using sophisticated computer models, we predict that if the City continues to operate its Buckman well field, it is going to impair water rights belonging to acequias along the Rio Grande, the Pojoaque, and the Tesuque rivers. These acequias located in northern Santa Fe County are not going to like it one bit when one morning they wake up and discover that the amount of water they have been diverting from the river has been gradually diminished due to pumping of the Buckman well field.

“Constant non-stop use of the deep high production wells are not the answer to Santa Fe’s water issues. Eventually, the lowering of the water table due to continued pumping is going to catch up.

“For 30 years there has been extensive discussion about developing a way to divert water of the Rio Grande. Almost a half-century ago, a tunnel was constructed under the Continental Divide in the Dulce, New Mexico, area. This water tunnel brings water from the Colorado River system and dumps it into the Rio Grande. The water has been flowing through the tunnel for decades. This water was intended to provide for Santa Fe’s future. It is a renewable water resource that is replenished by snow pack each year which falls high in the San Juan Mountains of Colorado. For 30 years there has been study after study done and alternative after alternative developed on ways to get this water to Santa Fe. The time has come to stop talking. It is now time to begin to act. There needs to be strong community action to bring this issue to a head. Every resident of the City needs to know where and how the City gets its water. Water needs to become everyone’s number one priority.

“The County has a vested interest in Santa Fe’s San Juan-Chama water and, as such, must involve itself in the City’s plan for developing this water. As a recall, the Santa Fe

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Metropolitan Water Board entered into a contract with Reclamation for this water in 1976, and I believe it was for 5,600 acre-feet of water. And of this amount, about 400 acre-feet belongs to the County. The County and the City need to begin to divert their San Juan-Chama water. This water was leased in 1976 for a period of 40 years from the Bureau of Reclamation. It was intended for the City's and the County's future. Steps need to be taken to make sure that this water will always be accessible to the City, and this needs to be done quickly so that existing residents can be assured that water will run out of their sink faucets when they turn on the tap.

"Both the City and County water system is complex. It is going to take a lot of hard work to understand and it is going to have to be explained. Everyone is going to have to have a basic idea of where their water comes from: it does not appear just magically when one turns on the tap.

"Right after the new year, I did something unusual. Typically, the State does not interfere with the internal operations of a city or a county. My responsibility typically looks at diversion points where one might be taking water off a river or one might be taking water out of the ground. I looked to see if it might hurt other existing water rights. I do not get involved in how a municipality runs its water system and I do not get involved in how an acequia distributes its water to its partisans. To be quite frank, not only would this be politically suicidal, I would have to have a staff of hundreds to do so. However, because I do live in Santa Fe and want to make sure that water will always be there when I turn on the faucet, I have been gently prodding the City over the past six weeks to take its water issue seriously. Working closely with the Mayor and the City Council, I have furnished a man for about three months to help the City get started on a process of getting a dependable, renewable water supply. I am very encouraged by the City's response and willingness to work with my person. This same person I will also be making available to the County. County Commission Chairman Paul Duran has graciously accepted my offer. His name is Paul Dolan and if he hasn't, he will be coming over to meet with you all to listen and describe the whole issue as it is developing in his work that he is doing.

"Las Campanas has a \$6 million bond intended to secure water from the Rio Grande. Because of certain timelines, Las Campanas informed me last Monday that they are going to go ahead to develop their own surface water diversion points at Buckman. Development of separate diversion points for Las Campanas, the County, or the City makes little sense to me. I believe it is important that the County, City, and Las Campanas work together and coordinate their environmental compliance and construction plans. There's an economy-of-scale equation that is going to save everybody money if everybody works together. I believe it will be in the County's best

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interest to work with the City and establish a regional water authority such as the Santa Fe Metropolitan Water Board that used to exist but was dissolved when the City bought the water system from the Public Service Company.

“I have heard a lot of people recently tell me that the recent snows that have fallen, including the one last night, are the answer to the City’s water problem. This is simply not true. The snows, yes, they do help, but there is a lot more to the City’s water supply than a couple of snows. It would be a big mistake for people to think that because the City’s reservoirs in Santa Fe Canyon are full that they have a good water supply.

“Because of Federal and State law there exists something called the “Rio Grande Compact.” This does impact the City of Santa Fe in its canyon reservoirs. The canyon reservoirs are protected only when Elephant Butte Reservoir, which is located south of Socorro, is full of water. Right now it is full of water. But if Elephant Butte should ever drop below a certain level, the State of Texas can call upon the water in the canyon reservoirs to be released to fill up Elephant Butte Reservoir. And you may think that this can only happen on an outside chance or will never happen: I can tell you, it has. This is a very, very serious issue. Even though those reservoirs might be full of water, I can order the water to be released, flow down Santa Fe River, untouched by the City of Santa Fe, to flow into Elephant Butte Reservoir to fill it up. This last summer when those reservoirs dropped down to 20 percent full, I can just imagine the public outcry that would have occurred if Elephant Butte Reservoir would have been low and the water would have been ordered to be released. This is really a serious issue that needs to be addressed. The canyon reservoirs are not the answer to the City of Santa Fe’s long-term water supply.

“Drilling a few new wells may help in the short term, but they’re not going to help the City in the long term. Water levels at one observation well near the Buckman well field show that the water table had dropped from being artesian, that means water was flowing on the ground, to now being measured at almost 700 feet below the surface.

“The process of getting a dependable water supply is not going to be easy. It may take five to eight years to implement. Work must begin on the NEPA, National Environmental Protection Act, environmental process that will formally evaluate alternatives to getting water into the City’s water system.

“Since 1977, that’s almost 24 years ago, there has been discussion with San Ildefonso Pueblo about using a site on Pueblo land to divert Santa Fe’s San Juan-Chama water. To make this option work, a perpetual easement is going to have to be secured which runs across San Ildefonso land to connect it into the City’s water system. It is foolish to

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get an easement that expires in a year or two. Once people get dependent on San Juan-Chama water, there is simply no way to politely tell people that they will have to sell their homes and move away.

"It is my recommendation that this option be terminated. My contacts at the Pueblo have been very emphatic. They are certainly not interested in giving anybody a perpetual easement today. A site needs to be selected along the Rio Grande that is not on Pueblo lands.

"Last week there was an opinion and order issued by the United States District Court on the *Aamodt* Case. The *Aamodt* Case is almost 35 years old. The last major item in this case was to decide the Indian's future domestic and livestock rights. Claims by the Indians for livestock and domestic purposes amounted to approximately 7,000 acre-feet. Instead, the Court, in what can be called a major decision, decided that the Indians did, in fact, have future rights, but they were limited to the maximum amount they had developed between 1846 and 1924. This opinion caught, I believe, everybody totally by surprise because for almost six months now there has been a court-supervised ongoing negotiations to settle *Aamodt*. The County has been a part of these negotiations. For all practical purposes, if this decision is certified by the Court, *Aamodt* is now over with. Unless the order is appealed, only mop up work now remains. Still to be determined is the amount of water used by the Pueblo for domestic purposes during the period from 1846 to 1924.

"However, despite the court ruling, a very important issue remains. We have a very serious water issue in Pojoaque Valley. The area is growing and because there is not a regional water system, individual wells and septic tanks are being installed almost daily. Nitrates have been detected for years in some domestic wells. Nitrates are an indication of contamination in a domestic well by a nearby septic tank. As the valley grows, this issue is not going to go away. It's going to, in fact, become more and more of a problem. In addition, we have casino resorts and a new golf course going in at Pojoaque. A dependable water supply for the people of the valley, both the Indians and the non-Indians, in the Tesuque, Nambe, and Pojoaque Valley must be provided. The Indians have already indicated that they intend to appeal the recent decision made by Judge Mechem. This appeal could potentially last for years. Meanwhile, a regional water supply is desperately needed. Next week, all the parties of the *Aamodt* suit will meet. The State, we're prepared to fully litigate and defend Judge Mechem's decision. However, this is not where I want to go. Instead, I would like to see a final settlement that could be reached using Mechem's decision as a cornerstone of the settlement. Another cornerstone of the settlement would be the construction of a regional water system. Here, as a part of the settlement, a diversion on San Ildefonso's lands makes

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sense. The diversion would occur on Indian land, and a water system would be constructed which serves four pueblos as well as the non-Indians living in the area. The settlement would allow a certain pot of Federal funds, which is primarily set aside for Indian settlement, to be tapped and to begin construction of this water system. Simultaneously, I am working with the State Legislature to insure that the State can also provide money to the area. The cost of such a system is going to be large, possibly in excess of \$50 million. I envision, to complete the settlement negotiations, we'll have to get Congressional approval of the settlement, do the environmental compliance, and complete the construction of a regional water system which will probably take a minimum of at least a decade and perhaps longer to accomplish.

"Last year, the Legislature passed a memorial instructing the state engineer to prepare a study of domestic wells—we call these 72-12-1 wells—and the potential impacts of these wells. Even though one individual well has no impact, when one considers the overall impact of thousands of these wells, the impact is substantial. We have just completed a draft report and if you all would like to see it, you can get it from Jack Frost. Statewide, the estimated withdrawal is close to 50,000 acre-feet, and depletions are in the neighborhood of about 35,000 acre-feet from groundwater and about 6,000 acre-feet from surface water. These water wells are extraordinarily large. It is almost impossible to draft legislation or rules on a statewide basis that addresses domestic wells. The idea that one shoe fits all is just not going to work with these domestic wells. The State's geology and population is just too varied. Instead, these wells need to be restricted on a specific area basis. Where the impact is small, there should be few restrictions. Where the impact is large, there should be restrictions. We now include as standard permit language on our 72-1 domestic permits language to the effect that the amount and usages of water are subject to such limitations as may be imposed by the courts or by County ordinances, which are more restrictive than our regulations and conditions. I have done this because I believe the County should have local control. The Constitution says that all waters of the State belong to the public. It is therefore appropriate for the state engineer to be involved, and I believe it is important for the state engineer to maintain control of the waters of the State; however, I believe that counties should be involved in the guiding of future development using domestic wells. A bill was dropped the day before yesterday by Senator Carlos Sisneros from Taos to give municipalities domestic control over wells within municipal boundaries. We support this bill.

"Eldorado is a major issue which confronts the County. We are winding up work which was funded by the State Legislature two years ago. The consultant retained to do the work is just finishing up his computer model. This model was intended to reflect how the groundwater beneath the Eldorado area works. The consultant's primary report

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supports my office's long-stated concern regarding the adequacy of supply of water. I will read directly from a letter dated January 31, 2001, sent by the consultant to the Eldorado Water and Sanitation District. He states: 'I continue to believe that the groundwater is sufficient to meet the projected 40-year demand, that's a full build-out demand, given unlimited access through new wells. Clearly, the existing wells cannot do this.' Let me read a second time: 'I continue to believe that the groundwater is sufficient to meet the projected 40-year demand, that's the full build-out demand, given unlimited access through new wells. Clearly, the existing wells cannot do this.' This statement is very disturbing. Clearly, at the end of 40 years people are not going to vacate Eldorado. There has been a tremendous amount of money invested in homes in the area over the last 30 years. Wells are not going to be able to be counted on as a permanent solution to Eldorado's problems. Eldorado is going to need a supplemental water supply. Eldorado must obtain this water from some sort of a regional water supply. Another consultant has just finished his work and he has indicated that by connecting the Eldorado system to either the City of Santa Fe or Santa Fe County's supply, a connection can be made to supply water through a 12-inch main. To do so would include, I believe, a source of water diverting this water from the Rio Grande. Water rights would include San Juan-Chama as well as other rights that the County might acquire.

"The acquisition of water rights from others is a topic of considerable debate these days. Agriculture consumes the majority of water in the State. If the County wants development to occur, the only source of water is from agricultural lands. Because this is an arid state and there is only a finite amount of water, outside the San Juan-Chama water, about the only source of water for development is from agriculture. I can just tell you as I walk the halls of Roundhouse that there is considerable debate that is occurring on how people wish to preserve agricultural lands. Unfortunately, development and preservation of agricultural land is simply not possible. This debate is sure to intensify over the years, and the County has a hard decision to make on this issue if the County continues to grow.

"The Estancia area of south Santa Fe County is experiencing much growth. A regional water plan for the area has been developed. High on the list of the recommendations is that no water be exported out of the basin, and I suspect that this was because water was taken out of the Estancia Basin and used for the Po Koo Golf Course in the Sandia Basin. We are in the process of developing guidelines for review of water right applications in the Estancia Basin. These guidelines are going to have several objectives. Groundwater levels and aquifer thicknesses should be managed so as to extend aquifer life. Rates of groundwater level decline should be limited so that existing groundwater rights will not be impaired. Existing

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water quality for domestic, municipal, and agricultural uses will not be impaired. We're going to establish what are called 'critical management areas.' These are areas where the predicted saturated thickness will be 80 feet or less by the year 2040. For areas with a relatively large saturated thickness, new drawdown effects will be limited to a rate of water decline. Drawdown effects will be limited to a decline of about 1.5 feet per year. All new wells, except for 72-12-1 domestic wells, will be required to be metered. Application for wells to provide a subdivision water supply will not be approved unless the application is accompanied by a satisfactory report demonstrating sufficient well capacity to provide to a sustained production of a time period which is required by Santa Fe County. These new guidelines will not restrict water from being exported from the basin, to do so would be contrary to State law. Imports and exports from water basin to water basin have been done throughout the State for over 100 years. There is actually water being imported today into the Estancia Basin from the Pecos Basin.

"Mr. Chairman [??] and members of the Commission, I would like to thank you for inviting me to speak this morning. The challenges that you all face out here are enormous but I am very glad you have called this session and again, thank you for inviting me to speak."

Chairman Duran thanked Mr. Turney for his presentation and opened the floor to questions.

Commissioner Gonzales also thanked Mr. Turney and commended him on his leadership and willingness to lend resources to the County. He supported Mr. Turney's recommendation for the City and the County to establish a regional water authority. He asked what the authority would do, how it would be composed, whether the authority would be elected, and if other regional water authorities would follow the same guidelines. Commissioner Gonzales asked the state engineer to address the cost and where revenues may be derived.

Mr. Turney responded:

"Let me address the regional water concept. I don't have any pre-detailed thoughts on the actual structure of the authority other than I know something has to be done between the City and the County. The San Juan-Chama diversion water is a joint effort that has to be undertaken by both entities. The City has within its municipal boundaries, they have customers that they have to serve, but at the same time the County has Las Campanas, Eldorado, and you'll ultimately have Rancho Viejo, and a single diversion point down there is going to take a combined authority. I'm sorry. I

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just don't have any definite ideas of how to do it. I can't even tell if legally such a thing is possible. I believe it is, however. As far as the regional authority in the Pojoaque area, I don't have any specifics on how something like that can be set up. I hope through the negotiations that we can set up such an instrument.

"Finally, on these costs, the way that it works especially on the Pojoaque Valley, the cost of this regional water system up in that area are going to be really high—\$50 million and I've even seen numbers even bigger than that. And that's just unaffordable, and you can't put in a rate base to try and cover something like that. The only way to do it is to get Federal participation and if we can get the Federal participation to cover the majority of it, then I would like to see if the State can also come up with money. There was a bill that was dropped in the hopper the day before yesterday by Joe Stell and it's for \$400 million that is to cover specifically these regional water supply systems, and it's from the high revenues that the State has seen this year from oil and gas revenues. If we can set that aside and the interest off that permanent fund can be used to fund projects such as yours, I think that this is a well use of money.

"The City is facing a rather unique issue on developing the San Juan-Chama water down at the river. The rates are already the highest in the State, I believe, and if you raise the rates in the City much, what will happen is people will try and save water to cut down on their bill. This has been done before out in California where they would raise the rates to cover the overall infrastructure improvements and people would just conserve water so you didn't get enough money coming in. And then they would raise the rates up again and it was a vicious circle. This is a real issue that the City of Santa Fe is going to confront is that you can't afford to raise the rates much to pay for this system. It's probably going to cost, I don't know, \$60, \$70, or \$80 million and, again, there's going to have to be a partnership established with the Federal and State government to pay for this thing. It's the only way that I can see it will work. And that work is already being undertaken by my office."

Commissioner Gonzales asked if the City and County's San Juan-Chama water rights would be challenged and, thus, delay the process of importing the water to the community.

Responding, Mr. Turney stated:

"As part of the environmental compliance, there will have to be Section 7 consultation done under the Endangered Species Act, and we do have the silvery minnow issue out here on the Rio Grande so this is a real concern of mine. The other issue that I believe I talked about it, it is absolutely essential that this 5,600 acre-feet

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of water, that a perpetual water right be secured from Reclamation on this. I believe the thinking was 25 years ago that you never have any use of that water and I believe that Art Trujillo was trying to push for the City to get 30,000 acre-feet of water. Well, finally, to even convince the City and County to acquire 5,600 acre-feet took a lot of pushing to do. Now we know that we desperately need more than that 5,600 acre-feet of water. I am very, very concerned that when you do try and renew these water rights that they may not be available for renewal.

"I can tell you that this has already happened. The Public Service Company of New Mexico has something called the San Juan Generating Station on the San Juan River. Their water right was about 16,000 acre-feet of water. And they wanted to renew this right and they started about 3 or 4 years ago. Their right was due to expire about 2005 and they just thought, gee, they were a big public entity providing water for all the citizens in the State and they could just get this renewed real easy and it didn't work that way. In the final analysis, PNM was not able to renew their right directly with Reclamation. What happened is that they had to renew it with the Jicarilla Apache Tribe—they didn't renew, but that's where they ended up getting their water from, the Jicarilla Apache Tribe, and they also had to pay about \$250,000 for the Navajos for certain infrastructure improvements on the Reservation.

"This is one of the reasons that I want you to lock up your San Juan-Chama right today because if you don't, there is not assurance that that's going to be renewed in 16 years. We can hope. You have a County Ordinance that says all subdivisions have to have a 100-year water supply with 15-year supply out in the horizon. We won't be able to approve any more subdivisions that are counted on San Juan-Chama water. I don't believe it's a very big deal to renew this thing and make it into a perpetual lease. I know what Reclamation has said and if you don't have copies of the letter that was sent to the City, I think they're dated 12/31, they're making some sort of opinion that they'll only give a 25- or 40-year lease—I believe we can get a perpetual lease and if we need to go back to Washington and get a rider inserted in language in a bill, I believe that Senator Domenici would be glad to do it. I believe that is something we should all set to be our objective over the next year."

Chairman Duran asked for clarification on a comment in the paper attributed to Mr. Turney that he would only approve County development dependent on a community water system that could only receive the State's approval if it meets the 100-year water supply. Developments receiving water from the County's San Juan-Chama water allocation would not be approved.

Mr. Turney responded:

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“Las Campanas is the only one he was familiar with. Four years ago, we did approve an initial phase of Rancho Viejo using San Juan-Chama. But future phases of Rancho Viejo, to be able to approve them, we do need to get this perpetual water issue resolved.”

Commissioner Trujillo informed Mr. Turney that the BCC has taken a strong stance against compromising traditional/agricultural uses of water for sustainable domestic supplies. He asked Mr. Turney if he was recommending compromising the State’s 80 percent of agricultural water rights.

Mr. Turney responded:

“Yes, that’s what I’m saying. You cannot have both occurring simultaneously. There has got to be new ways of looking at things. But we cannot have agriculture and development occur simultaneously. Something has got to give in the system. There is just not enough water rights to go around; there is a finite water supply. It is an issue that is hotly debated. I can offer no solutions other than this is a desert state with a finite water supply.

“There are others, though, that I believe that will be available to the County, and we have about 2,000 acre-feet of water that will be set aside for San Juan Pueblo as an Indian settlement and, ultimately, this water will be available for acquisition by somebody—they will market it. And the same way with Jicarilla Apache water. They have 6,500 acre-feet of water and those water rights have not yet been decided what will happen with them, but they are available today and perhaps the County will want to secure a portion of those water rights. So you may be able to continue to allow development if you can acquire additional water rights from other sources.”

Chairman Duran invited questions from the public, and Carolyn Sigstedt asked whether Land Water Conservation funds are available and why he spoke against developing an agreement with San Ildefonso.

Mr. Turney responded:

“My concern is a matter of timing. The City of Santa Fe needs water immediately, and to get a perpetual lease is not going to happen today. I believe that part of an Indian settlement, a perpetual lease across San Ildefonso land for a water system that serves four pueblos is possible. But it is going to take us at least a decade to get

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there. So it's a matter of timing. I believe it is going to take at least a decade and the City of Santa Fe needs to establish a diversion point on the Rio Grande immediately.

"And, I don't recommend that the use of San Ildefonso's diversion point. That's going to take us quite awhile to do it. Eventually, I believe, we'll get there, and I'm very optimistic about these settlements.

"As far as the Water, Land and Conservation Fund, I'm sorry, I'm not familiar with those funds."

Chair Duran asked about catchment of storm water and building reservoirs to hold that water. He asked the engineer whether there was any problem in doing so.

Mr. Turney responded:

"Mr. Chairman, yes, you do and it's because of this Rio Grande Compact. We do a review of all dams that are constructed in the State and we have a requirement that you can't keep the water in those dams for, I believe, it's more than 96 hours. It has to be released because someone downstream needs those waters and was counting on them. They already have a water right on them. It may be La Cienega. It may be somebody in Albuquerque and it may be the State of Texas, but there is no free water available anymore in this State. So construction of a dam to hold water, you'd have to get water rights from some other source to do it."

STAFF PRESENTATION

Doug Sayre/Santa Fe County Water Company

Mr. Sayre indicated that the idea of a water company during the 1980's and reached fruition in mid the '90s. The southern portion, south of I-25, of the system was built in 1995-1997. The north section was built in 1998 and three additional miles were added to the south in 1999. The system has two service areas: St. Francis east to La Cienega west, past the County jail south and north to the factory stores. The Community College, IAIA and some areas on SR 14 are serviced by the City as part of a joint venture.

At present the County has 279 connections within its service area: 223 residential in the south and 42 residential in the west; 11 commercial and 3 (SF County Jail, State Prison, and NM National Guard) institutional. The system contains 25 miles of pipelines and one booster station. The system can be expanded to service other entities including Eldorado.

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Future plans include a system from the La Cienega interchange south and west into the Paseo Cde Baca area; acquiring the Hagerman Well to provide service around 599; investigations of County wells to further the water supply along with a pipeline across I-25 into racetrack vicinity to service upper La Cienega. Water right allocations, stated Mr. Sayre are always an issue.

The County has 500 acre-feet per the Wheeling agreement with the City. The agreement requires renewal in 2005.

Mr. Sayre identified the three metered points where the County obtains water from the City's system: Richards Avenue, Cerrillos Road/Factory Stores, and south of Las Campanas

Mr. Sayre remarked that the County Utilities is very serious about water conservation. This past year a resolution to develop methods to conserve water was passed.

Responding to Commissioners Trujillo's question regarding service to the northern community, Mr. Sayre said the County is investigation diversion points on the river to develop a regional system. He said the southern portion of the County, Cerrillos, Madrid, Galisteo, requires further development also.

Chairman Duran commented that the Commission has been discussing new regulations regarding water conservation systems for catchment and conservation devices required at the building permit stage.

He requested that Mr. Sayre investigate conservation measures taken in other high-desert communities for Board consideration.

Mr. Sayre said the County Water Company was investigating education, code revision, and building saving devices. He said the County's .25 acre-feet water restriction was a big saving.

County Treasurer Trujillo asked if the County had a policy regarding wells and community water systems in rural areas. Mr. Sayre responded that by state statute, state wells are permitted even if a community system is present. At this point the State Engineer has the authority over private wells although Mr. Turney is advocating greater control by counties. Deputy Land Use Administrator Abeyta commented that the County Code restricts lot sizes and requires water restrictive covenants for lot divisions down to .25 acre-feet/per year. In fact, the code requires if the water line is within 200 feet the applicant must attempt to tie on.

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Referring to domestic water right conservation, Mr. Sayre commented that 72-12-1 wells are prolific around the County and the County would like private well owners to consider transferring some of those water rights to the County. The well-user could transfer a portion of the 72-12-1 rights to the County in a "banking" type system.

Estevan Lopez/County Land Use and Utilities Director

Mr. Lopez displayed a map produced from a Rancho Viejo funded study. The map shows by dots the number of domestic wells in the area. The Community College District is the least dense area in terms of wells and the County wants to protect that resource.

The County has acquired 150 acre-feet of diversion water rights from Top of the World Farms in Colorado and 1200 acre-feet is on contract. The contract allows the County to delay the ultimate permit while periodic payments (two at \$80,000 a piece) have occurred.

Chair Duran remarked that the Top of the World water cannot be diverted below the Otowi Gage. Mr. Lopez confirmed that was correct.

The County is a partner with the City for 5,605 acre-feet of San Juan-Chama water and the County has 380 acre-feet of that.

Commissioner Gonzales asked whether the County was engaged in discussion to purchase additional San Juan-Chama water. Mr. Lopez responded that discussion are ongoing with Jicarilla Apache. In the event the Top of the World rights are not transferred, they may be tradable with other political entities (City of Espanola or Taos) for other San Juan-Chama water rights. He said both Espanola and Taos could use Top of the World rights in their systems although the topic has been discussed in a very preliminary form.

Chair Duran commented that it was imperative that the water issue remain a top priority for the County.

Mr. Lopez said the next payment to Top of the World is due May 2001 at which time he expected an additional 80 acre-feet would be purchased.

The San Juan-Chama water rights expires 2016 and Mr. Lopez said that contract is also a priority. The County owns a 50-acre farm with agricultural water right in Socorro. The water rights are about 101 acre-feet of diversion rights. He said the water could be moved to a diversion point.

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Chair Duran asserted that the County could sell the Socorro farm with the water rights and with the proceeds purchase additional rights. Mr. Lopez said that was Board policy decision.

Mr. Lopez pointed out that Top of the World water is a single-owner, or corporate-industrial entity, taking groundwater for an agricultural rights but not an acequia water rights.

The Valle Vista water system purchased by the County has 77.5 acre-feet of water rights. Ultimately, the system will produce 37 acre-feet. The County has a small bloc of water rights in La Cienega community that will in time extend services to the Las Lagunitas area and the developer transferred 21 acre-feet of consumptive rights to the County. He said both transfers require State Engineer approval.

The County continues to buy increments of water rights from Top of the World and will continue making incremental purchases until a diversion point is developed.

Mr. Lopez identified the San Juan-Chama options which included Jicarilla, San Juan Pueblo and other entities that have allocations. He said the options should be pursued aggressively.

The County has a long-term lease of the State Pen and the associated 387 acre-feet of consumptive rights. The Pen has three wells and the County is currently operating the system. The Pen utilizes approximately 200 acre-feet of the 387 available. Chair Duran said he was at a state Capital Outlay Committee meeting and Representative Lujan expressed concern about the water rights for domestic use. The Chair said it appeared there was concern the rights would be sold to Rancho Viejo. He recommended using the water for the County's economic development park on SR 14 to benefit the County and state as a whole.

Mr. Lopez said concurred and said those types of options would be further developed in the County's water plan for presentation to the state.

Mr. Lopez said it was important for the County to acquire a portfolio of groundwater rights to manage in conjunction with surface water rights thereby creating an insurance in drought times.

The County has been approached by private individuals with ground or surface water rights inquiring whether they could dedicate them to the County and obtain service. He said that transaction of that nature require the State Engineer's approval via an assessment that doing so would not impair others in the area.

Mr. Sayre returned to the podium and discussed the three water supply areas (San Ildefonso, Buckman and Santo Domingo) based on proximity. He said the County recently signed a permit with San Ildefonso. Data to ascertain what the aquifer is capable of in terms of quantity and quality. Although the County has conducted drilling in the area, a facility to determine the true capability is needed. The aquifer is very good in the San Ildefonso and provides for less treatment cost.

Mr. Sayre displayed a schematic of the San Ildefonso pilot system on how the uncontaminated groundwater can be pumped out. Preliminary testing shows good quality that requires very little treatment. The river flow requires further study through all the seasons.

Buckman is considered a direct diversion point but has some infiltration capability to reduce sediment concerns. Mr. Sayre said economics plays heavy in the Buckman system.

Santo Domingo and the County have entered into an MOU to study water supply. Mr. Sayre commented that Santo Domingo may have a more prolific water supply than San Ildefonso or Buckman.

Commissioner Sullivan mentioned that he and Commissioner Campos met with the State Engineer where the notion of tapping into the underground system installed by the Corps of Engineers at Cochiti used to de-water the agricultural lands south of the Cochiti Reservoir. Mr. Sayre said preliminarily the County is just working to get the MOU functioning. He said the County was in the process of reviewing hydrology reports from private land in the Pena Blanca area along the river. Mr. Sayre said the underground gallery would, as far as he was concerned, be a part of the \$150,000 investigative study.

Mr. Sayre said the County is investigating how best to utilize the excess groundwater supply at the State Pen. The water could be used for emergencies or aquifer storage/recovery projects. The State Pen also lends itself to recharging and storing San Juan-Chama water. The County used 160 acre-feet of San Juan-Chama of its 500 acre-feet allocation during 2000. Of that, 115 was used for residential and commercial use.

Mr. Sayre said the Hagerman Well will be beneficial in bringing another source of supply to the County's system. The well is 800 feet deep and is a good sandy-gravel aquifer. The well requires redrilling because it was built as irrigation well but the well pumps 700-800 gpm when it was in use. The County is confident that the Valle Vista can be maximized.

Responding to Chair Duran, Ms. Yuhas confirmed that the Hagerman Well is on the same aquifer that the residents of that community use.

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Mr. Sayre delineated the following water management alternatives: aquifer storage and recovery, effluent reuse, return flow credits and conservation efforts.

Commissioner Sullivan asked whether effluent reuse included the possibility of piping it to the Santa Fe River to provide a greater flow and facilitate Las Campanas switching to effluent rather than potable water for irrigation uses. Mr. Sayre said that was a consideration. He commented that Mr. Turney mentioned in the past that the return flow in the river between the treatment plant and La Bajada was possible. Mr. Sayre said the County is clearly interested in obtaining maximum return flow credit. Mr. Lopez said grant money has been budgeted specifically to review the issue of effluent.

Commissioner Trujillo asked what impact the return flow may have on acequia agricultural uses. Mr. Sayre said the County will have to separate in-basin rights from San Juan-Chama rights. San Juan-Chama will need to back to the Rio Grande for reuse.

Partnerships and Relationships

Mr. Lopez said the Wheeling agreement with the City of Santa Fe provides the County's only supply source. The agreement contained two 5-year renewals and the terms expires August 2004. The agreement wheels the County 500 acre-feet and the County pays as a commercial customer. Under the agreement, the City uses the County's San Juan-Chama option. He said the agreement must be reworked to serve on a long-term basis.

Mr. Lopez clarified that the only water rights that are usable are the San Juan-Chama rights. The City, to the extent that it pumps its Buckman well field, uses San Juan-Chama water to offset the impacts on the Rio Grande. It also holds other water rights on the Rio Tesuque and Rio Pojoaque stream systems to offset the Rio Grande.

The County and City are also linked by a regional perspective in terms of a water diversion. Mr. Lopez said it was important that the two entities work together to avoid duplication of efforts. Conservation efforts should be coordinated and policies should be explored as a regional concerns.

The City and County are partners in the San Ildefonso contract for the pilot Ranney facility. Mr. Lopez' opinion differed from that of the State Engineer, and he recommended nurturing the relationship for long-term capabilities.

The City of Espanola is interested in developing regional water potentials with the County.

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Mr. Lopez said partnerships with communities are very important and mentioned La Cienega as a senior water right owner and Eldorado for bulk water deliveries. The County needs to address the critical situation in Eldorado for long-term solutions. Partnerships with private entities like Las Campanas should be explored in terms of diversion facilities.

Chair Duran asked if the County's option to purchase Las Campanas' system would be jeopardized if the City supplied Las Campanas water. Mr. Lopez said he believed in terms of the distribution facility, the County has the right-of-first-refusal which would be serve as a negotiation tool with the City in terms of future cooperation.

Mr. Lopez identified Rancho Viejo as big player in the water partnership situation. Rancho Viejo owns and the County operates a small wastewater facility.

Mr. Lopez emphasized that private partnerships were not limited to Rancho Viejo and Las Campanas. He said any entity that wanted to come to the table and offer resources could be an important element to the County's system.

Mr. Lopez said the State Engineer's offer to work with the County and resolve the diversion efforts was very important. Other regional efforts such as the Jemez y Sangre Water Planning and the Estancia Basin region must be developed further. He encouraged the Commissioners to attend the Jemez y Sangre presentations that were occurring throughout the community.

Chair Duran said it was important that the County and City resolve the Wheeling issue regarding the County's payment of for use of the pipelines. He said he understood that the County considers the City's use of the County's San Juan-Chama allocation as payment; however, the City does not. Mr. Lopez said the contract for the San Juan-Chama water rights requires some review.

Commissioner Trujillo concurred with Mr. Lopez that the County should nurture relationships with the Native American community. He said he looked forward to participating in that effort.

In terms of a long-term perspective, Mr. Lopez said the Governor of San Ildefonso wants to see the pilot project move forward. He said there is a general consensus that long-term cooperation is necessary to protect the region's resources. The recent decision of the *Aamodt* case should further this cooperation.

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Commissioner Sullivan said the pilot project will serve to identify the technical issues involving the water. He commented that San Ildefonso can bring substantial federal funding to the table, the *Aamodt* decision, and the ability to provide clean water to its people. In return, San Ildefonso would obtain an easement in perpetuity.

Chair Duran encouraged staff to maintain a diverse program in obtaining water rights.

MATTERS FROM THE COUNTY ATTORNEY

1. **Executive session (working lunch)**
 - a. **Discussion of pending or threatened litigation**
 - b. **Discussion of possible purchase, acquisition or disposal of real property or water rights**

Commissioner Sullivan moved to go into executive session pursuant to NMSA Section 10-15-1 (1) to discuss the matters delineated above. Commissioner Gonzales seconded the motion which passed upon unanimous roll call vote with Chairman Duran and Commissioners Trujillo, Gonzales, Campos and Sullivan all voting in the affirmative.

[The Commission met in executive session from 12:55 to 2:10.]

Chairman Duran announced that the only topics discussed during Executive Sessions were those listed above and no action was taken.

Commissioner Trujillo moved to come out of executive session, and Commissioner Sullivan seconded. The motion passed by unanimous voice vote.

40-Year Water Plan: Katherine Yuhas, County Hydrologist

Ms. Yuhas said staff was developing a 40-year plan for the water system. The plan will identify the water demands over the 40 year period and allows water rights to be acquired by the County and protected from loss. The County will be able to purchase water rights to meet future demand without having to put those rights into immediate use.

Ms. Yuhas said the plan is required to have 5 elements: identify the current use; show the anticipated population growth; demonstrate conservation of water and reduction of per capita use; identify measurement of water use; and, document recharge of the aquifer for return flow credit. The plan does not have to specifically identify what water resources and water

rights the County plans to acquire to meet the needs. It does need to generally identify the water that will be used, i.e., groundwater from the area.

Commissioner Trujillo asked why the plan focussed on 40 rather than 100 years. Ms. Yuhas said 40 years is part of state statute from the Office of the State Engineer. Mr. Utton said the state's constitution requires that water is put to beneficial use. A 40 year plan provides an entity an exemption to the rule. He indicated that usually if water is not used, the water is subject to forfeiture or abandonment. He added that the 40 year clock begins when the water right is placed into the plan. The plan provides a special legislative dispensation for public entities to hold water rights for future needs.

Ms. Yuhas said the water plan will be structured through a series of maps proposed for service by the County's water system over the 40-year period. The maps will show the area and the critical information required by legislation.

Staff anticipates a draft of the 40-year plan will be available for Board review within three months.

Proposed Feasibility for Pojoaque-Santa Fe Regional Water System: John Utton

Mr. Utton said the *Aamodt* case a federal adjudication of the Pojoaque basin including Nambe and Rio Tesuque and there is a federal gag order on the case. There has been a lot of progress on the case in terms of high-capacity infiltration system and point of diversion at San Ildefonso Pueblo, although the public is not aware of it.

The County does not own any water rights that were claimed in the litigation but the County is participating along with the City, the four pueblos (Nambe, Pojoaque, San Ildefonso and Tesuque) and other water rights users in mediation. The County is involved because it wants to be helpful in trying to settle the 35 year old case, which Mr. Utton identified as the oldest federal case in the nation.

Mr. Utton stated that Arizona Judge Nelson and the Department of Justice cleared him to provide a short status briefing of the case and the proposed regional water system. The system would serve the Pojoaque Basin, Santa Fe Basin and potential the Galisteo Basin to serve Eldorado. Using a map, Mr. Utton located the diversion point on the Rio Grande on San Ildefonso lands and the possible pipelines for connection to water system.

Mr. Utton said the hope is through a combined effort four things could be accomplished: high capacity diversion point, a distribution system within the Pojoaque

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Basin, a transmission line/pipe to the Santa Fe Basin, and acquisition of additional waters for both basins.

He identified the major source of supply coming from the Jicarilla-Apache Nation who through 1998 water settlement obtained 6,500 acre-feet of San Juan-Chama water which can be remarketed under 99-year leases. The participants of the *Aamodt* case have asked for 3,000 of the allocation. The City and County want to negotiate with the Jicarilla-Apache for the remaining amount up to 3,500 acre-feet of consumptive water.

Mr. Utton said the *Aamodt* draft settlement agreement is still bare-bones and includes the creation of a public corporation approved by congress to operate the regional water authority. The board would be very unique with county, city, staff and tribal appointees.

The Interstate Stream Commission funded a pre-feasibility study to present to the State's delegation. A closed meeting is scheduled with Senator Domenici with the participants to discuss appropriation of \$1.5 million to do the feasibility study for the regional system.

In conclusion, Mr. Utton said the long-standing lawsuit may be settled in the very near future. He commented that there is strong, historical, heart-felt attachments to the age old acequias and the failure to deal adequately with Indian water rights under the 1924 Pueblo Lands Act.

Commissioner Sullivan asked whether a change in state statute was required for implementation of the regional water board. Mr. Utton said it probably would require both federal and state legislation. The entity would require powers associated with utilities and a federal charter would be required to include the Pueblos.

DEVELOPMENT: County Action Agenda

Facilitator Carl Moore said one of the first components is to identify "why water is important to County government." He said he would delineate the different items mentioned earlier that staff would address and allow the Board to determine whether the list was complete. And to identify criteria the Board recommends to staff when faced with choices of allocating time and projects: "What criteria should guide staff in making decisions about water actions?" Finally, the Board will develop a prioritized list of water actions in terms of most important.

Mr. Moore said one of the purposes of today's summit is to give staff guidance on how to proceed with water.

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“Why is water important to County government?”

Commissioner Sullivan responded his constituents in District 5, are the only County residents to have a moratorium on development of commercial properties as a result of the lack of water and water rights. Those constraints also apply to the Community College District. He pointed out that the issue concerns the County as a whole.

He cited land use has the issue consuming most of the County’s time and the issue the public has the greatest opinion about. Water is the key to development. In fact, he mentioned that during his campaign for County Commission people identified water as their main concern. Commissioner Sullivan said it was important that development not lead water but that the County consider how economically, reasonably and fairly it can provide water and let the growth follow the resource.

Commissioner Campos said the key is understanding that water is finite. Pollution to the water table is a major concern. He cited the County’s economic dependence on land development. He supported regional thinking and resolution of the conflict between municipal water use and agricultural use.

Commissioner Campos advocated greater Commission discipline and consistency in approving projects to assure adequate water and wastewater infrastructure exists. As a representative of the public, the County has to take the lead and determine where the infrastructure will go and not be solely responsive to the developers.

Chair Duran said water is the key to managing the County’s growth. In order to insure the County has a sustainable community, new renewable water resources must be established. He commented that today’s summit discussed the many options for new resources and he strongly advocated acquiring them. Managing the resource is of the utmost importance to continue to provide new opportunities. He said he hoped a mutual philosophy can be developed with the City of Santa Fe to determine how to provide these services to the citizens.

Speaking as a member of a traditional rural community with a tremendous dependency on water for agricultural , Commissioner Trujillo said the most paramount issue is to partner in a regional holistic effort with our Native American neighbors, acequia systems, and local governments.

Commissioner Gonzales said water translates to quality of life, tradition and stewardship of resources. He said the growth in the community was witnessed during the 80s

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with newcomers, in the 90s the growth appears to be coming through families looking for places to live and work. He said looking to the future includes more than "taking on development," but assuring that "our children and our children's children have an opportunity to enjoy the same quality of life that we enjoy today." He too supported a regional approach.

Identified staff points

1. Investigate innovative water conservation strategies
2. Development of a 40-year water plan
3. Wheeling Agreement
4. Valle Vista – acquisition and upgrading capacity
5. State Pen water rights/
6. Hagerman Well
7. San Ildefonso diversion
8. San Juan-Chama water rights – increase rights for perpetuity
9. La Cienega senior water rights
10. Buckman diversion
11. Santo Domingo/Pena Blanca/Cochiti – possibility
12. Las Campanas water system
13. Evaluate aquifer storage and recovery
14. Evaluate effluent reuse
15. Regional relationships/partnerships
16. Petition BOR to extend time line to San Juan-Chama
17. Jemez y Sangre Planning
18. Development of Regional growth management plan

Mr. Moore said some items, such as funding, become criteria for decision making

“What criteria should staff use to prioritize tasks”

Mr. Moore asked if whether or not a task contributes to a regional activity was a criteria in choosing one for another. Commissioner Gonzales said whether it contributes to a long-term sustainable renewable source of water was the criteria.

Commissioner Trujillo said any effort that would solidify a regional water program was a top priority.

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Chair Duran commented that the 18 points all intermingle to support a sustainable water resource.

1. Contributes to a long-term renewable and sustainable resource
2. Whether it fulfills the goals of a growth management plan
3. Whether it contributes to a regional water program
4. Cost
5. Legal obligations

Commissioner Gonzales identified long-term renewable resources as a governmental obligation. The Commission will have to find the resources to fund a realistic program.

Commissioner Sullivan said the first priority is partnering with the City. He said they need to sit down with the City and develop conservation and effluent reuse. Conservation and effluent reuse has an impact with the City but very little in terms of the County's 200 users. He said County staff could help the City in addressing these issues.

Mr. Moore commented that he currently is working on a project for the Governor of Tennessee. The state has more surface water than almost any state in the country and yet they have lost 20 percent of their water due to the drought. He commented that it was particularly hard for Tennessee because the state's citizens do not grasp there is a problem because there is water every where. Even the great lake states are feeling the pressure of water.

The remainder of Mr. Moore's work was done without his use of a microphone and the results will be available on his report.

Mr. Sayre mentioned the possibility of two diversion systems.

Mr. Moore said the priorities would be developed in the order created by the Commission accompanied by a narrative drawing on the Commission's language to direct staff to develop an action agenda..

PUBLIC COMMENTS

Carolyn Sigstedt said it was unfortunate today's meeting was void of any City Councilors. She said the presentations were "incredibly" valuable. She said individual wells should be metered and suggested the County consider subsidizing meters.

Ms. Sigstedt expressed concern about transferring private domestic water use and the notion that Espanola would even consider swapping for County's Top of the World junior water rights.

Edith Pierpont, League of Women Voters and Jemez y Sangre Planning Committee, encouraged the Commission to attend the planning committee meetings. She said the plan expands a 60 year period. She commended the County for conducting today's very information meeting..

Dennis Kensil thanked the County for holding the meeting and said he found the State Engineer's remarks encouraging for the Eldorado community. He asked why the County was approving any development and why Eldorado was singled out for a moratorium.

Joe Ruiz a representative from Senator Bingaman's office commended the County for today's meeting. He commented that it was staggering to think of how much the studies identified by Manager Montoya cost. If a board is developed with City, County, and Indian representatives with utility powers it will be seen as a pilot for the entire state.

Mr. Ruiz said he too wished this were a regional meeting.

Chairman Duran explained that this meeting was developed for the Commissioners to focus on a vision regarding its water priorities. He said the next step is sitting down with the City in an open forum.

Commissioner Gonzales commented that while the City and County have been able to sit down to the table to discuss water issues, there has been a disconnect in terms of land use policies. The City has taken an active voice in criticizing said the County's growth management. He said it was important the two entities respect the areas of jurisdiction.

Stephen Burstein, Regional Planning Authority Director, stated that the Water Management Task Force may be the appropriate opportunity to begin this dialogue. Commissioner Campos said the RPA was a great place to start.

Manager Montoya asked for Board guidance in terms of conveying the second meeting with the city. He asked whether the leadership of San Ildefonso, Santo Domingo and a representative of the Harza Report. The Commission was in consensus.

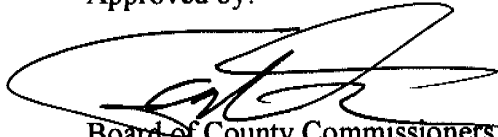
Manager Montoya informed the participants that on Friday, March 23, the County will have a Tribal & County Summit to develop a mutual agenda to improve the quality of

life for all its constituencies. The cities of Espanola and Santa Fe and Rio Arriba County will be invited.

ADJOURNMENT

Chairman Duran declared this meeting adjourned at approximately 4:00 p.m.

Approved by:

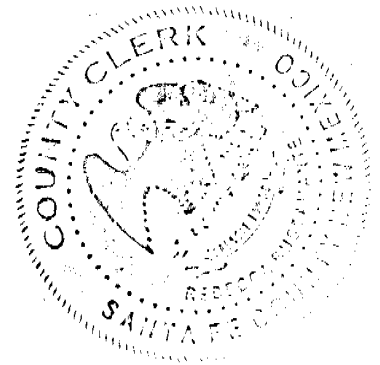

Board of County Commissioners
Paul Duran, Chairman

Respectfully submitted:


Karen Farrell, Commission Reporter

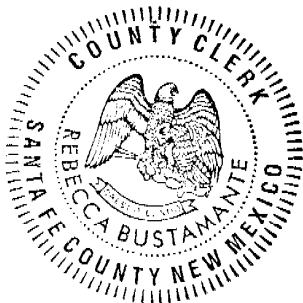
ATTEST TO:


REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK

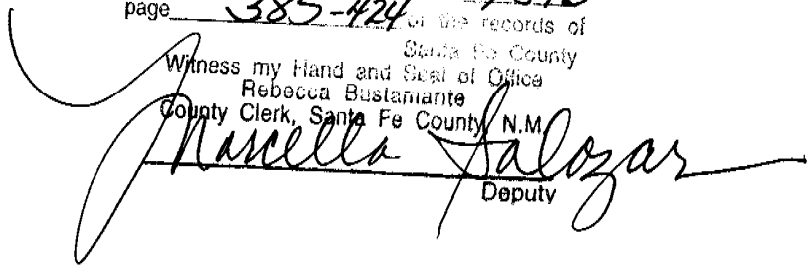


Attached Exhibits:

- Exhibit 1: Staff outline of County water issues.
- Exhibit 2: Briefing Paper prepared by John Utton



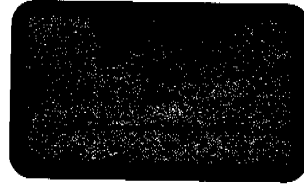
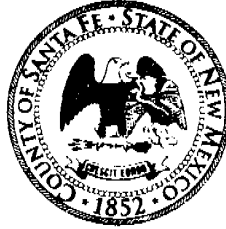
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COUNTY OF SANTA FE } SS
STATE OF NEW MEXICO
I hereby certify that this instrument was filed
for record on the 15 day of Mar A.D.
20 01 at 11:25 o'clock a.m.
and was duly recorded in book 1873
page 385-424 of the records of
Santa Fe County

Witness my Hand and Seal of Office
Rebecca Bustamante
County Clerk, Santa Fe County, N.M.

Deputy

Marcos P. Trujillo
Commissioner, District 1

Paul Duran
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3



Richard D. Anaya
Commissioner, District 4

Joe S. Griné, Jr.
Commissioner, District 5

Samuel O. Montoya
County Manager

SFC CLERK RECORDING 08/13/2004

MEMORANDUM

1873414

DATE: February 15, 2001
TO: Board of County Commissioners
FROM: Estevan López, Land Use and Utilities Department Director
SUBJECT: Information Outline for County Water Summit

Attached is a copy of an outline containing information on a number of County Water Utility is involved in. The staff will elaborate on these and other issues during the Water Summit briefing and executive session.

Merriam

INFORMATION FOR SANTA FE COUNTY WATER SUMMIT

A. County Water System

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- 1. Conceived in the late 1980's
- 2. Facilities constructed in 1995 –1997, 1998 and 2000
- 3. Two primary service areas
 - a. South Service Area – south of I-25
 - b. West Service Area – northwest of the City of SF
- 4. Present customers – 279 connections
 - a. South Service Residential – 223
 - b. West Service Residential - 42
 - c. Commercial – 11
 - d. Institutional – 3
- 5. Present Facilities
 - a. 25 miles of pipeline, booster station, 1.5 MG reservoir
 - b. Water supply wheeled from the City of SF at three locations
 - c. Distribution system as developed and conveyed by developers
- 6. Near Future Facility Improvements
 - a. La Cienega area
 - b. Hagerman
 - c. State Pen
 - d. County Wells
 - e. Pipeline to Upper La Cienega area
 - f. Pipeline to Eldorado

B. Santa Fe County's Currently Owned Water Rights

- 1. San Juan Chama
 - a. At least 375 acre-feet
- 2. La Cienega Area (Las Lagunitas)
 - a. 42 acre-feet diversion
 - b. 21 acre-feet consumptive
- 3. Socorro
 - a. 101.7 acre-feet diversion
 - b. 71.19 acre-feet consumptive
- 4. Top of the World
 - a. 160 acre-feet (diversion)
- 5. Valle Vista
 - a. 77.5 feet diminishing to 60 acre-feet in 2004, 48 acre-feet in 2019 and finally ending at 36.9 acre-feet in 2020

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C. Santa Fe County's Future Water Rights

1. **Top of the World – additional 1,040 feet (diversion) under contract**
 - a. **Pros**
 1. **Large block**
 2. **Perpetual rights**
 3. **Adjudicated**
 - b. **Cons**

Our application is at the State Engineer's office, but it is on hold due to protests against our application arguing:

 1. **We shouldn't be allowed to transfer these water rights until we have a long-term agreement for a place of diversion established (San Ildefonso)**
 2. **No growth advocates don't want to see any agricultural water transferred to domestic use**
 3. **Environmental protestors have argued that this will hurt the silvery minnow. We believe this is not true because consumption will occur above Otowi gauge whether it is at TOW or at San Ildefonso. Instream delivery will maintain flow.**
 - c. **Financial Considerations:**

The sellers want payment over time. Each year we pay a portion of the money owed (6% of 1.2M which comes out to \$80,000). This way we purchase 80 AF each year. Right now we own 160 AF. In May of 2001 we will purchase another 80 AF. In May of 2002 the amount we must purchase each year goes up to 320 AF.
2. **Additional San Juan Chama**
3. **State Pen (see Ground Water Supply Alternatives)**
4. **Other Private Owners – ground water and surface water**

D. Surface Water Supply Alternatives

1. **Wheeling Agreement with the City of Santa Fe**
 - a. **This was a ten-year agreement that began 8/10/'94. Under the terms of the agreement, we are treated as a commercial customer of the City. We off-set the 500 AF of water they move for us from Buckman with 375 AF of San Juan Chama rights. We do not have any off-setting rights on the Pojoaque and Tesuque streams which are affected by this pumping.**

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- b. How do we effectively partner with the City long-term for larger amounts of water? The Water Task Force and the Wastewater Task Force were created 6 months ago but they still have not met.
- c. We are co-contractors with the City for our San Juan Chama Water Rights. They charge us standard commercial rates for moving our water through their pipelines. We have not yet directly paid for our portion of the San Juan Chama lease payments. It is our contention that our payments for transporting the water cover the lease payments. The City has countered that, in that case, we have not paid for the portion of San Juan Chama water which we have leased but have not used. We countered this argument by saying that the City has sold our unused San Juan Chama water without our consent to downstream users. These issues need to be resolved.

2. San Ildefonso

a. Information

Three-way agreement to construct and test a pilot Raney infiltration gallery between the City, the Pueblo and the County at the beginning of 1998. The agreement provides for the City and the County splitting constructions and investigation costs equally. The Raney pilot infiltration gallery is designed to study: feasibility of large-scale production, water quality, economics, does NMED/ USEPA consider this to be ground water or surface water, does the SEO consider this to be ground water or surface water?

b. Pros

1. Initial investigations are done
2. The BIA has issued a FONSI on the Environmental assessment Currently the Pueblo is ready to move forward
3. Pilot project could be constructed by June if construction starts soon
4. This would allow us to access water rights from above Otowi gauge potentially including long-term leases of Indian water rights

c. Cons

1. Due to other unrelated circumstances with the Pueblo, progress has been slower than anticipated.
2. City and County are paying for building the facility, but the Pueblo could end up owning it if an agreement is not signed
3. One year of testing needs to be conducted once constructed Summer 2002 before all feasibility questions are answered
4. Assuming that NEPA work gets done, funding is available (very likely) and all agreements are in place – the most

optimistic time we could be supplying water this way would be by the end of 2004

d. Financial

To date County expenses have been approximately \$130,000. Estimated costs for the County to get the pilot project up and running are \$400,000. The pilot project could become one of the delivery systems of the full-scale project. Six or seven might be needed to supply the metro area, so a very rough estimated full cost for the total project might be \$30 - \$40 million including a transmission system. If the pilot project 50/50 cost sharing mechanism continues, \$15 - \$20 million would have to be covered by the County.

3. Santo Domingo Information

An MOU is in place which states that they are willing to work with us to study water supply needs and develop water supply options for both parties. They have agreed to discuss giving us easements and long-term leases of water rights.

4. Las Campanas Information

We have two options with Las Campanas. We can purchase their water distribution system and water rights for \$1, if they build a system and we have a utility company capable of running their system. If their system is not completed by 2004, the County would then get their \$7M bond to use in construction of the water diversion system. This has strategic importance if we ultimately want to have our own system. We could upsize the pipeline to the river.

E. Ground Water Supply Alternatives

1. State Pen

a. Information

An agreement is being negotiated for the County to lease the State Pen water system including its 387 acre-feet of water rights.

Approximately 200 of the 387 acre-feet would have to be reserved for State Pen use. The lease is likely to be provided in exchange for the County operating the Pen's water system.

b. Pros

1. The 3 wells at this location have the right to 387 AFY of which they only use 207 AFY.
2. We have legislative authorization to lease the additional water rights for up to 99 years.

3. We would trade our services for their additional water rights.
4. We can only lease these water rights when we have completed a water service plan.

c. Cons

1. Affects La Cienega. If they do a priority call, these rights are the junior water right.
2. We will need to apply to the SEO to expand the place of use. Such application could be protested.

d. Financial Considerations

The only cost to the County are the in-kind costs for running the system.

2. Hagerman

a. Information

We are currently negotiating for the purchase of the well and the associated water rights.

b. Pros

1. 116.5 AF consumptive use, 233 AF diversion – could be raised based on historical use
2. We won't have to pay until the determination has been made that these water rights have not been abandoned.

c. Cons

1. Affects La Cienega, if they do a priority call we are the junior water right.
2. These water rights are part of the Anaya adjudication.
3. This water right may have been abandoned.

3. Valle Vista

a. Information

We have entered into a contract to purchase this facility from Mr. Apodaca, but the contract is subject to approval by the PRC. We have agreed to do the work to get approval from the PRC.

b. Pros

1. The Valle Vista Water and Sewer Utility own 77.5 AF which are diminishing and will eventually be about 40 AF.
2. The system has 267 customers which adds to our customer base.
3. This gives us a point of diversion for water rights.

4. The system is run-down and would probably have ended up on the County's hands anyway.
5. Gets the County some local ground water rights.
6. Gets the County some additional effluent to use for re-use.
7. Upgrading the system will stop potential ground water degradation.

c. Cons

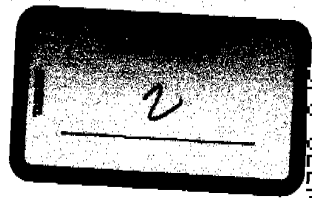
1. Affects La Cienega. If they do a priority call, these rights are the junior water right.
2. We will need to apply to the SEO to expand the place of use which could be protested.

d. Financial Considerations

The system will need to be upgraded in order to provide better water system reliability and effluent quality for aquifer recharge.

F. Ongoing Water Projects / Studies in Santa Fe County

1. Jemez y Sangre Planning
2. Estancia Basin Planning
3. Northern NM Water Quality Task Force
4. TAP Water Santa Fe
5. City of Santa Fe Water Supply Alternatives Study



SEC CLERK RECORDING 08/13/2004

Briefing Paper
February 2001

PROPOSED FEASIBILITY STUDY FOR
POJOAQUE-SANTA FE REGIONAL WATER SYSTEM

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Introduction. This Briefing Paper outlines the need for \$1.5 million in funding for a feasibility study of the construction of a regional water system that would divert water from the Rio Grande and deliver it to water users in the Pojoaque and Santa Fe Basins, which include long-standing traditional Pueblo and acequia uses, as well as growing domestic and municipal demands throughout a region that currently has approximately 100,000 residents. Construction of such a water system, and with it the importation of substantial additional water supplies, would dramatically reduce shortages and thereby ease the intense water disputes that characterize the area today.

Regional Water Shortages. The following illustrate the chronic water shortages in the region:

- The *Aamodt* case, which is the adjudication of all water rights in the Pojoaque Basin, has dragged on for 35 years and is the oldest active federal case in the nation. In order for this case to settle, there must be enough water to resolve the many competing claims in a basin that includes the four Pueblos of Nambe, Pojoaque, San Ildefonso and Tesuque and many-century old acequias, as well as many new residents. In part the case's heart-felt and thus far irreconcilable differences stem from failure to deal adequately with Indian water rights under the 1924 Pueblo Lands Act.
- The City of Santa Fe has had to place drastic water conservation measures on current customers and is considering a ceiling on the number of new residential and commercial hook-ups.
- In the unincorporated portion of Santa Fe County within both basins, more than 5,000 acre feet of water will be needed to meet demands within the next 40 years; yet there is no source of water within either basin readily available to meet those demands. Throughout the County, domestic well users are relying on a groundwater source that is less and less reliable, increasingly takes water from other water right holders and is more and more susceptible to contamination.

How This Project Will Help. The proposed regional water system is the area's best hope for solving the persistent water shortages in both basins. The cornerstone of the system would be the construction of a point of diversion on the Rio Grande on San Ildefonso lands, from which water could be pumped to serve the region. Such a project would have the following vital benefits for the region:

- It would provide a means of bringing in an additional 3,000 acre feet per year of water for use by Pojoaque Basin water users. The mediation that began six months ago is offering the first sign of hope, by bringing long-time adversaries together in support of a regional solution. Discussions are already underway with the Jicarilla Apache Nation to buy this additional water from the San Juan-Chama Diversion Project and to bring it to the basin. This imported water would allow for additional economic development in the area, particularly by the four Pueblos; would assure a reliable domestic supply; and would reduce water use and impairment conflicts by locating a new diversion point along the Rio Grande, rather than within the basin.
- It would allow the Santa Fe area to use its 5,600 acre feet per annum of San Juan-Chama water. Santa Fe's current water woes are not because of insufficient water rights or lack of wet water. For decades the Santa Fe area has paid its share of the San Juan-Chama Diversion Project, in anticipation of having that water available from the Rio Grande for municipal use. Unfortunately, the only current physical means of taking that water out of the Rio Grande is the City's Buckman Wellfield, which has proven not to have the physical capacity to make full use of the Project water.
- It would allow for a regional solution and concomitant economies of scale. The City and County are already working with San Ildefonso Pueblo on a pilot surface diversion project on Pueblo lands. That effort could be combined with a project for the Pojoaque Basin to create a regional system. By working together, the Pojoaque and Santa Fe Basins can share in the solution, with the potential of serving more than 100,000 people. A regional system will allow both basins to meet their current and future needs, to implement drought planning, including by engaging in aquifer storage and recovery, and to bring back stream flows for environmental and other beneficial uses.
- This regional diversion project would also advance the objectives and is being coordinated with the efforts of the Española Valley Pojoaque Valley Regional Wastewater Treatment Project, which is focusing on water and wastewater issues just to the north of the area in question. By integrating water and wastewater services, the region will be able to reuse treated effluent and obtain credits for return flows, thus allowing for the most efficient use of water resources.

Players. The following political entities and groups are working together to develop a regional water system:

- The Pueblos of Nambe, Pojoaque, San Ildefonso and Tesuque and the Jicarilla Apache Nation.

- Acequia and domestic water user groups, including the Rio de Tesuque Association, the Rio Pojoaque Acequia and Water Well Association and the Pojoaque Valley Irrigation District.
- The City and County of Santa Fe.
- The New Mexico State Engineer.
- The U.S. Bureau of Reclamation, Bureau of Indian Affairs and Fish and Wildlife Service.
- The Española Valley Pojoaque Valley Regional Water and Wastewater Steering Committee.

Timeline and Status. The following initiatives are underway:

- All the parties to the *Aamodt* case have agreed to stay the case and engage in intensive mediation with Judge Michael Nelson of Arizona. The parties have drafted a preliminary settlement agreement and are continuing to negotiate the contents of the settlement. At this time, the mediation is scheduled to conclude in late spring and the participants are hopeful they will have agreement by then, at least in principle, which can be submitted to each party for approval. It has become clear that a fundamental condition of any settlement will be construction of a regional water system, which would build on the pilot project currently being undertaken by the City, County and San Ildefonso Pueblo.
- The Aamodt parties and the City and the County of Santa Fe have already drafted the organizational documents for establishment of the regional water system, to be called the Pojoaque-Santa Fe Basin Water Authority.
- The players listed above have commissioned a pre-feasibility study of a regional water system that is scheduled to be completed in mid-March. Attached is a copy of a map showing one possible alternative for the location of the primary water lines, including connection to the Santa Fe Basin.
- The City and the County of Santa Fe, in conjunction with the Aamodt parties have begun negotiations with the Jicarilla Apache Nation for a lease of its San Juan-Chama water. In addition to the 3,000 acre feet per annum needed for the Pojoaque Basin, the City and the County are requesting an additional 3,500 acre feet per annum of San Juan-Chama water for lease from the Jicarillas on a 99-year lease to meet the future needs of the Santa Fe area.

Federal Funding. In order to realize the region's goals outlined in this paper, considerable federal funding will be needed. A comprehensive Indian water rights settlement that includes construction of a regional water system cannot be achieved without federal support. In order to begin the process, the region is requesting \$1.5 million for fiscal year 2002 to prepare a feasibility study for the regional water system.

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