

12 February 2015

Sally Jewell, Secretary  
U.S. Department of the Interior  
1849 C Street NW  
Washington, DC 20240

Dear Secretary Jewell,

Recently the New Mexico Interstate Stream Commission (ISC) informed the Department of Interior of its intent to develop water on the upper Gila River in southwestern New Mexico. The decision is the result of a 10-year process led by ISC under the auspices of the Arizona Water Settlements Act (AWSA). We understand that at this point the ISC is only providing notice to the Secretary of its intent to develop a New Mexico Unit, if such development is feasible from economic and engineering standpoints. We also know that additional regulatory compliance is required through National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA), and that no final decision has been made regarding proposed water development in New Mexico authorized under AWSA. We offer our comments and a suggestion regarding how best to go forward to complete terms and conditions of AWSA.

Our primary concern regards the quality and accuracy of the technical information contained within many of the ISC-administered studies for AWSA. These studies, used to support the ISC contention of no negative environmental impacts and even environmental benefits of the proposed diversion and storage alternative, violated a basic principal of the scientific process in that none underwent peer review. Promulgated without rigorous and transparent peer review; planned, proposed, and presented behind closed doors, these studies lack credibility and should not be considered "the best available" science, and cannot be used in assuring environmental compliance. There is high quality and peer-reviewed scientific information available that does not support the ISC contention, but that was not used in the AWSA planning process. The ISC position of minimal or no impacts or even benefits of the proposal to divert and store Gila River water is based upon insufficient and flawed technical information and is therefore not supportable.

Both of us have considerable experience with a variety of recovery programs that were developed to mesh water development and endangered species conservation and recovery, including both programs that have worked and those that have not. Common to programs that have worked is the use of sound technical information in a manner that respects the scientific process. In our experience, the programs that have generated and utilized the best scientific information are those where ISC has not played a dominating role, such as on the San Juan River. On the Pecos River in New Mexico, the ISC made considerable effort to ignore or exclude credible scientific information and instead use data of dubious merit. Had they been successful in compromising the science, it would have further jeopardized the federally-protected Pecos bluntnose shiner. Conversely, a dominant ISC role on the Middle Rio Grande has produced considerable controversy and disagreement over the science, primarily the result of ISC reliance upon unsound technical information. For the Middle Rio Grande this has led to the functional extinction of the federally-protected Rio Grande silvery minnow.

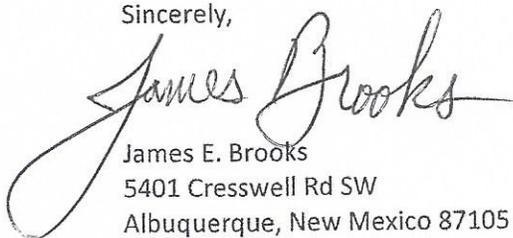
Going forward, we believe that a solution to support use of the best available scientific information centers on ensuring a scientific process that is above reproach. Under the terms and conditions specified in AWSA, DOI is the lead for federal regulatory compliance and ISC may request to be a joint lead for

NEPA. For future federal environmental compliance (both NEPA and ESA) for any action conducted in furtherance of AWSA, we are advocating for strong DOI leadership. We believe that strong DOI leadership will ensure that quality technical information will be used in future planning efforts and environmental compliance by honoring the scientific process.

Development of a viable alternative for New Mexico under the AWSA will require significant investment of partners and stakeholders in the process. The outcome does not necessarily have to satisfy every priority of each of those partners. However, there must be trust in the process and inclusion of all partners.

We appreciate your consideration of our comments regarding future steps for the AWSA planning process.

Sincerely,



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