

## MEMORANDUM

DATE: November 15, 2010

TO: New Mexico Interstate Stream Commission

FROM: Craig Roepke, ISC

SUBJECT: Gila Planning Process

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Attached to this memo are the recommendations for use of the funding and water provided to New Mexico in the 2004 Arizona Water Settlements Act that stakeholders in the region have submitted to date. The recommendations are attached for informational purposes only. Staff has not had the opportunity or resources to assess, group, or evaluate any of the current recommendations. Stakeholders will make short presentations before the Commission. At this time it is not necessary for the Commissioners to familiarize themselves with the recommendations. A discussion of the New Mexico Interstate Stream Commission (ISC) planning processes that have led to these submittals and recommendations for moving forward follows.

### Planning History and Status

The public involvement process for the Gila Settlement of the 2004 Arizona Water Settlements Act (the Act) began in the spring of 2001 with a public meeting in Silver City. There have been over 180 public meetings concerning the Act since that time, in various venues. The Act was signed into law in December 2004. The Act provides on average up to 14,000 acre-feet per year of additional water depletions for New Mexico from the Gila Basin. That amount is in addition to the approximately 30,000 acre-feet per year provided in the 1964 US Supreme Court Decree in *AZ v. CA*. The Act also provides that beginning in 2012, \$6.6 million per year for a period of ten years will be transferred into an account administered by the ISC. Up to an additional \$62 million is available for construction of a project that would utilize some or all of the additional 14,000 acre-feet of water. The Act requires that any of the \$66 million be expended in southwest New Mexico and approved by the ISC in consultation with the Gila San Francisco Water Commission (GSFWC). The ISC must also approve any contract for any of the additional 14,000 acre-feet of water.

In September 2004, before the Act was law, the Commission formally adopted a policy (attached) to guide its considerations regarding how the water and monies available under the Act would be allocated. The policy requires protection of the Gila ecology, use of the best available science, and provision for present and future water needs. During 2005, the ISC convened the Gila San Francisco Coordinating Committee with its Technical Team. During 2005 the Technical Team, with representation from all regional interests, crafted nine consensus

projects to develop the data and information required to determine if any of the 14,000 acre-feet could be harvested without impairing the Gila ecology. Unfortunately, funding for the studies was vetoed.

At the Governor's direction, ISC began a new planning process, open to any and all and considering economic and cultural concerns in addition to technical issues. The new planning group began meeting in October of 2007, and called itself the Southwest New Mexico Stakeholders Group (SWNMSG). Meetings are monthly in Silver City. All decisions by the group must represent unanimous consensus. In 2008, \$800 thousand was appropriated to DFA to support the work of the SWNMSG. The monies were used for:

- An economic forum
- Science forum #2
- Supply studies
- Demand study
- A surface water – ground water interaction model

The Bureau of Reclamation is completing a report correlating the supply and demand studies using BuRec funding.

The SWNMSG has completed a number of activities:

- Developed a Stakeholder Consensus Goal: "Determine how to utilize the AWSA in a cost effective manner to balance historical and future demands against uncertain supply while protecting the environment."
- Adopted the BOR Process Planning Roadmap (attached) to guide the planning process to a consensus set of recommendations to the ISC. At present, the SWNMSG is between steps 2 and 3 of the 8-step process.
- Identified Consensus-based Desired Future Conditions that encompass the planning boundaries and perceived problems.
- Held the Economic Forum on May 28, 2009 and the Science Forum on June 3, 2009 for consideration of issues for analyses.
- Completed cataloguing of existing technical information and reports.
- Developed planning objectives and constraints.
- Developed criteria for evaluating proposals.
- Solicited proposals for use of the water and/or money in November 2009
- Began discussion of proposals in December 2009
- Established deadline for submission of a consensus set of recommendations from the SWNMSG to the ISC by end of 2010.

The 2010 deadline was approved by the Commission in late 2009 and had been intended to allot the entire year of 2011 to further screen, evaluate, and gather additional public and local government input prior to arrival of the first \$6.6 million in 2012.

By November 2010, the participants in the SWNMSG have not been able come to consensus on a set of proposals for recommended projects or activities. Instead they have submitted all 55 proposals received by the group, attached, as worthy of further study.

A number of interests and entities, including the GSFWC, local political groups, and important economic interests have not been comfortable participating in the SWNMSG process. Other groups have begun their own planning processes related to the Act. They include the Gila Basin Irrigation Commission, the Catron County Irrigation Commission, the Prospectors Club from Grant County, and the Silver Spikes from Luna County. Some have submitted, or will submit, their own recommendations for use of the monies and/or water, also attached.

### Path Forward

Before 2012, when the first installment of the \$66 million arrives, it is important that the ISC have a refined set of recommendations to aid a decision on initial expenditures of monies and future development and use of the water and/or funding.

Some groups have proposed a neutral “Town Hall” hosted by New Mexico First in late summer or early fall of 2011 to reach a majority consensus on a refined set of recommendations for use of the water and monies. A Town Hall report does not require unanimous consent but reflects the majority consensus. The report is reviewed by stakeholders, but New Mexico First is responsible for and writes the final document. Because of the Act’s complex legal and technical requirements, it is critical that an accurate and comprehensive background document precede and condition any stakeholder deliberations. New Mexico First has tentatively proposed a series of meetings among a small group to craft the background document. That small group would have representation from all interests. In addition to providing a sound basis for reaching consensus in the Town Hall deliberations, such effort would define the goals and deadlines for the Town Hall.

### Recommendations for 2011

- Watershed improvement has been supported by all interests. At its August meeting the Commission approved a FY11 work plan for beginning a long-term watershed project and further use of the ground water – surface water interaction model. If approved by the Commission, the work would continue and be funded with the monies available in the Act beginning 2012.
- Where possible, staff will refine and group the current stakeholder recommendations by general type (diversions, infrastructure, watershed improvements, conservation, etc.) and begin initial evaluations of those groups under the ISC policy for consideration of use of the \$ and water: 1) protect the Gila environment, 2) use of the best available science, and 3) provide for present and future water uses.
- By 2014, New Mexico must inform the secretary of the Interior in writing if the state wishes to utilize any of the additional 14,000 acre-feet. If the state desires to develop any of the water, NEPA requirements must be completed by 2019. At the next meeting of the Commission, staff shall provide the Commission a planning schedule with milestones and deliverables through 2014.
- Continue interactions with and support all stakeholder groups and the Town Hall and its precursor planning efforts.

- If possible, provide a set of consensus stakeholder recommendations to the Commission by the end of September 2011 that appear, economically, technically, ecologically, and legally feasible and that reflect the ISC Gila Policy.
- If stakeholders in the region are not able to come to consensus by the end of September 2011, staff shall craft a set of recommendations that staff feels are ecologically, economically, technically, and legally feasible, that fulfill as much as possible the needs and desires of all stakeholders in the region, and that conform to the ISC Gila Policy.
- The benefits in the Act are substantial, 14,000 acre-feet per year of additional water and up to \$128 million. Staff recommends the Commission appoint a Gila Committee to guide staff efforts.

ISC MEMORANDUM

DATE: September 9, 2004

TO: New Mexico Interstate Stream Commission

FROM: Craig Roepke, ISC

SUBJECT: Suggested general policy statement by the ISC for use in consideration of any funding or water utilization project under S.437 (Gila Settlement)

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Because it will be necessary for all interests to be recognized and to work cooperatively if New Mexico is to realize the full benefits of a settlement in S.437, the following policy statement is offered by Interstate Stream Commission staff for adoption by the Commission:

"The Interstate Stream Commission recognizes the unique and valuable ecology of the Gila Basin. In considering any proposal for water utilization under Section 212 of the Arizona Water Settlements Act, the Commission will apply the best available science to fully assess and mitigate the ecological impacts on Southwest New Mexico, the Gila River, its tributaries and associated riparian corridors, while also considering the historic uses of and future demands for water in the Basin and the traditions, cultures and customs affecting those uses."