



SOUTHERN UTE INDIAN TRIBE

February 10, 2010

La Plata Archuleta Water District
954 East Second Avenue, #202
Durango, CO 81301

Re: Request for Comments Regarding La Plata Archuleta Water District Master Plan

Dear Mr. Lunceford:

The Southern Ute Indian Tribe appreciates the opportunity to comment on the proposed La Plata Archuleta Water District Master Plan. Our staff has reviewed the draft plan and the Tribe submits the following comments for your consideration.

As a general matter, the Tribe believes the Master Plan is adequate as a conceptual planning document, but strongly believes that many details, particularly those related to the Tribe and its Reservation, may require much work to resolve. Furthermore, it is important to recognize the level of uncertainty in many aspects of the plan.

The Tribe's specific comments relate primarily to the proposed water supply for the project. In the "Water Supply" section, the Master Plan states, "[t]his section describes the water supply available from each location." The Tribe wishes to emphasize that most of these sources are only potentially available. In addition, it is important to point to some of the potential impediments related to each of the proposed sources.

Pine River

The District's analysis of water availability for its junior water right on the Pine River does not appear to incorporate any consideration of the unresolved nature of water rights on this river in the winter. Depending on the resolution of this issue, the ability of the District to divert from this river could be impaired. In addition, the District's proposed Alternate POD # 1 on the Pine River is located in an area where flows are frequently so low that an effective diversion will be something of a challenge in both summer and winter. Furthermore, there is a downstream potential calling right (in winter) at the Tribe's Water Treatment Plant that may limit the ability of the District to utilize water from this source.

Piedra River

The District's analysis of water availability for its junior water right on the Piedra River does not appear to incorporate any consideration of the Colorado Water

Conservation Board's existing instream flow rights as a potential calling right. This could impair the ability of the District to divert from this river.

Florida River

There is no analysis of water availability on the Florida River, although this river is considered a possible supply source. Existing Colorado Water Conservation Board instream flow rights could impair the ability of the District to utilize this proposed point of diversion.

Pine River Irrigation District

The District proposes the Pine River Irrigation District's Vallecito Reservoir water as a potential water supply. The Tribe believes there is an unresolved question regarding an irrigation district's ability to provide a firm, reliable, permanent water supply for domestic uses.

Animas-La Plata Project

The District proposes the State of Colorado's share of the Animas-La Plata Project (ALP) as a potential source of water supply. The State has not agreed to contract for this water at this time. If the State does not contract for the water, the water reverts back to the two Colorado Ute Tribes. There is significant uncertainty as to the availability of water for the District from the ALP reservoir. In addition, it is not clear that the District's consideration of ALP as a potential water supply recognizes that, even beyond the issue of availability, significant cost-related issues also remain unresolved.

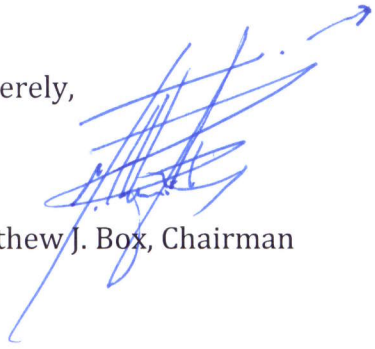
In addition, the Master Plan states that the new water treatment plant on the Animas River could act as a backup for the Bayfield plant and that the Bayfield plant could be used as a backup plant for the Animas water customers. However, the viability of this plan depends upon the time of year and on the amount of water that the Bayfield plant can use to produce potable water. The reality is that if the flow is low in the Animas River, it is very likely to also be low in the Pine. Both plants would actually get their water from the two reservoirs (Vallecito and Ridges Basin) but the reservoirs would likely be facing similar shortages.

The Tribe encourages the District to continue pursuing a reliance on one or both of the reservoirs cited (Ridges Basin and Vallecito), or other reservoirs, as the source of supply for the system. In addition, as the Master Plan acknowledges, the Tribe does not currently have intentions to engage in the sale of treated water. The Tribe does not profit from the sale of water to its customers, rather, the Tribe's Utilities Division provides water to the Tribe and the local community as a critical service. Thus, the Utilities Division's responsibility is to ensure a safe and adequate water supply locally rather than to other parts of La Plata County.

Finally, the Tribe does not believe that the Master Plan captures the significant issues associated with resolving potential rights-of-way within the exterior boundaries of the Southern Ute Indian Reservation, including the fact that any rights of way will be subject to federal and Tribal requirements.

Thank you again for the opportunity to comment on the Master Plan. If you have any questions, or wish to discuss any of these matters further, please contact me at 563-0100, ext. 2320.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Matthew J. Box', with a long horizontal stroke extending to the right and ending in an arrowhead.

Matthew J. Box, Chairman

cc: La Plata County Board of County Commissioners
Sheryl Rogers, La Plata County Attorneys' Office
Erick J. Aune, La Plata County Planning Director
Rodney Class-Erickson, Tribal Planner
Lena Atencio, Director of Natural Resources
Chuck Farago, Southern Ute Growth Fund
Monte Mills, Director, Legal Department
Tom Brown, Southern Ute Utilities Division