

DRY GULCH LISTENING LOG BOARD RESPONSE

This document is a written response of the Boards of Directors of the Pagosa Area Water and Sanitation District and San Juan Water Conservancy District to public input on the Dry Gulch project received since June, 2008.

Input was categorized into five issue areas. Within these issue areas, it was further parsed into summary concern statements (underlined below). The Boards have prepared a response to each of these statements of concern.

ISSUE A. CREDIBILITY OF ORGANIZATION

A-1: PAWSD forged ahead with reservoir plans and expenditures regardless of 2004 ballot issue rejection.

Unfortunately, many things were not communicated well in 2004. The most important being: this was not an election to decide if a reservoir should be built or not, it was an election to determine the mechanism of funding. With the SJWCD unable to gain voter approval for a mill increase, the only alternative was to team with PAWSD and its fee-assessing statutory ability.

Fortunately, in 2006 the voters approved a second ballot issue to de-Bruce the SJWCD specifically in order that the District could pursue (and accept) grant funding for the reservoir.

Good communication cannot be done retroactively. It can, however, be implemented proactively. If there are to be future ballot issues, the Boards will clearly communicate the purpose and reasons for the issue and all alternatives to issue failure.

A-2: Board's propensity for Executive Session lends questions of transparency, honesty, personal gain of those involved and legitimacy.

Executive Session is held only as allowed by state statute and only when privileged information, that could compromise legal situations if made public, must be discussed between Board members and, occasionally, legal counsel. Specifically regarding the Dry Gulch project, Executive Session has been necessary due to land negotiations and lawsuits. The Boards typically only meet jointly once every three months and, therefore, it is usually necessary to take advantage of that time to discuss pressing confidential matters.

There is an argument that the Boards enter into Executive Session to discuss matters that are already public knowledge; this is in fact a myth derived from considering "public rumor" to be "public knowledge".

Any information that can be made public is made public, in the form of press releases, posting to the Dry Gulch web page and as discussions in open meetings. If information is requested by any member of the public, it is always made available so long as it is not confidential.

A-3: PAWSD's financial decisions and debt obligations are questionable given the economic climate.

In order to incur debt in the form of revenue bonds, several layers of independent oversight are required. Amongst other things, these independent firms look at revenue history and forecasts, audit history, etc. and require a certain degree of parity – proof that the District has the financial means at least 25% over and above the level of debt service that will be incurred by bonding. In the economic climate we are experiencing, lenders are especially strict in their requirements. It is currently very difficult to obtain a large loan and therefore it is a testament to PAWSD's financial soundness that we were able to obtain the low-interest, state-backed CWCB loan.

A-4: Fred Schmidt should not be involved in or associated with this project now and in the future.

Fred Schmidt has stepped down as Chairman of the SJWCD Board, and does not serve on the PAWSD Board. His involvement in the project is as one of ten voting Directors on the SJWCD Board, and he is working with the current SJWCD Board Chairman on remaining private land acquisition.

The Board members have filed disclosures indicating that they have no personal interest in projects on which they are making decisions.

A-5: Working together with other organizations will enhance PAWSD's credibility.

PAWSD and the SJWCD are working with the Town, County, Fire Protection District and School District to recalibrate impact fees.

PAWSD has continually worked with most of these agencies over the past several years to support Affordable Housing, river restoration projects and other mutually and publicly beneficial initiatives.

A-6: It will take PAWSD a long time to rebuild its credibility and public confidence.

PAWSD continues to disseminate information about its mission, responsibilities, financial position and project status and plans. PAWSD always welcomes public input at meetings, in writing or in person and will always respond. The 2009 budget contains provisions, many that have been in place for years, for public relations in the form of display advertising, web site maintenance, newsletters and radio. If there is more that we could do, we welcome suggestions. Ultimately, it is the responsibility of the public to take interest and to become informed before making a decision about organization credibility.

A-7: PAWSD is not listening to or acting in the best interest of the public.

The PAWSD mandate is to provide clean water and waste water services to those in our service area. At any given time, we must be able to meet the demand of our customers while fulfilling the requirements of state and federal regulations, and plan sufficiently far into the future to

ensure that we will always be able to do that. We most definitely listen to the public and understand the economic ramifications of service and capital investment fees, and try to balance those concerns with our mandate. However, it would be gross negligence in the long term to abandon that mandate entirely. PAWSD is always acting in the best interest of the public – we are a public entity and could not do otherwise.

A-8: Disconnect between message that size of reservoir has not been determined and the message that projections and expenditures to date have been predicated on a 35,000 AF size.

We needed a starting point. Without a rational justification, fees cannot be collected for a future project that will be needed due to future growth. Yet, due to the time it takes to plan for a complex reservoir project, we had to get started. 35,000 AF was chosen at the start based on population projections at that time. No one has a crystal ball, and therefore it is necessary to revisit those projections from time to time. As cost and population projections change, so does the potential size of the reservoir. What the projections and available funds are around 2016-2018 when reservoir design begins will determine the ultimate size of the reservoir.

A-9: PAWSD Board is misguiding State agencies by misrepresenting the level of public/community support for project.

Through signed agreements, we have historically had support from the Town and County Boards of Commissioners for this project, agencies that represent the public at large. We have never misrepresented public support for the project.

In order to defray the cost of this project, it will be necessary to seek grants and low-interest loans. We hope that the community will continue to support the project because the consequences to obtaining future outside funding are dire if not.

The Boards may consider conducting a “straw poll” of support for or opposition against the Dry Gulch project prior to placing an initiative for project funding on a future ballot. This will help us to determine the current level of community support and areas where outreach may be needed.

ISSUE B. LEGITIMACY OF PROJECT

B-1: Future growth estimates are questionable and the need for a 35,000 AF size is exaggerated.

Growth projections are currently being reevaluated both for in-house and the joint impact fee study uses. See also **A-8** and **C-1**.

B-2: Because the numbers keep changing and the plan seems vague, the project should not go forward until numbers (costs, accepted EU projections) are concrete.

The numbers will not be concrete until we are ready to break ground on the reservoir.

Inherent in any future planning activity is a certain level of uncertainty; the further into the future one is planning, the greater the uncertainty. Those afraid of this uncertainty – and the criticism it receives - simply do not plan. When planning a complex reservoir and treated water supply

project, it is necessary to start well in advance of both the groundbreaking and the ultimate service area build out. If we waited until we were ready to break ground, we would have another ten or twenty years of permitting, surveying, engineering and land acquisition (if it was available) before we really *could* break ground. We would then be twenty years behind the eight ball. *Then* we would have criticism!

B-3: Fred Schmidt's spearheading calls into question the legitimacy of this project.

See **A-4**, above. Additionally, the San Juan Water Conservancy District has, nearly since its inception in 1987, been working to develop a raw water reservoir.

B-4: The perception, aided by the BoCC resolution and 2004 vote outcome, is that there is no public support for this project, particularly at the 35,000 AF size.

See **A-9**, above.

ISSUE C. HOW WILL WE PAY FOR THE PROJECT?

C-1: Size of debt service is unprecedented and Water Resource Fees are not coming in as projected: fear of a County-like financial train wreck resulting in emburdening property owners to carry the difference through increased service fees.

See **A-3**, above. Prior to raising service fees (if necessary) to pay for WRF-bonded debt service, PAWSD would first explore all other options.

C-2: First 20% of new growth should not have to pay for whole project – cost should be spread amongst everyone.

Using the philosophy and 2002 Citizen Advisory Committee direction that growth should pay its way, the 2006 Water Resource Fee was calculated by dividing the project costs that are attributed to growth by the total number of new Equivalent Units that were projected to connect between 2008 and 2040, less projected SJWCD impact fee revenue.

This fall, PAWSD entered into a contract with BBC Research and Consulting to reexamine the Capital Investment and Water Resource component fees. This involves reexamining growth projections, planning horizon, and project costs. The philosophy is that it is not the first 20%, but all of the growth that will require the new facilities that will be charged. To be determined at a later date, those arriving after facility build out may also be charged a capital investment fee, which will serve to help offset the costs of those facilities and pay for facilities needed farther in the future. BBC results are anticipated by the end of 2008 or early in 2009.

In addition to the Water Resource Fee, the Districts have and are continuing to pursue grant funds to help offset the costs of the project. To date, the SJWCD has received approximately \$1.1 million in grants.

C-3: Alternate proposals:

- Weiler/Walsh proposal to eliminate WRF and spread cost over life of project by raising service fees for everyone
- Cut WRF in half and go for a G.O. Bond to finance Snowball WTP replacement
- Reenter discussions with JR Ford and Alpine Cascade Corp. to obtain water storage rights in Hidden Valley Reservoir.

PAWSD has contracted with a consultant, BBC Research and Consulting, to reexamine the Capital Investment and Water Resource component fees (see **C-2**).

C-4: How does PAWSD intend to pay for land required for Forest Service land exchange when WRF is not currently covering debt service on existing private land loan?

Regarding the WRF and debt service, see **A-3** and **C-1**, above. A Forest Service land exchange, if it was to occur, would not take place for a number of years. At that time the funding mechanism would be evaluated. PAWSD will not incur, nor would bonding regulations allow, more debt than it can pay.

D. AFFECT OF PROJECT ON THE LOCAL ECONOMY

D-1: The project costs more than this community can afford. High fees are deterring commercial development and new people from coming here, and the project will hurt current residents through higher service fees well into the future.

The project is not funded by service fees, nor is it ever intended to be funded by service fees except as a last resort unless the Weiler/Walsh proposal is adopted (see **C-3**, above.) PAWSD, with the SJWCD, is participating in the community economic forum that is analyzing and possibly recalibrating the 2006 EPS impact fee schedule. Also, PAWSD is working with an independent consultant to potentially recalibrate its Water Resource Fee. (**C-3**)

There again, a balance must be struck between what the community feels it can afford so as not to deter development, and making sure development pays for the facilities it requires. If growth is not charged fully for this facility cost, service fees and/or taxes will have to be raised. If no one pays, the project will not happen of course, which will mean there cannot be any growth (impossible without water), and the community will stagnate.

Which cost can the community not afford?

D-2: The Water Resource Fee, predicated on a 35,000 AF reservoir, is consuming most of the available capital in the community at the expense of other agencies' impact fee needs.

Although some entities have not implemented the existing 2006 existing impact fee schedule, PAWSD is working with other entities to recalibrate the total amount of fees a developer must pay.

E. MISUNDERSTANDINGS THAT MAY UNDERMINE PROJECT LEGITIMACY

E-1: June rate increase due to the gap between Dry Gulch debt service and WRF collections.

Monthly service and quarterly availability fees were raised in January, 2008 in order to cover anticipated operations and maintenance costs related to inflation, such as fuel, chemicals and laboratory testing costs. These fees were also raised to cover debt service for the Hatcher Water Treatment Plant upgrade and the Automated Meter Reading Program. **Service fees do not fund the Dry Gulch project.**

E-2: 35,000 Acre Feet would supply 300,000 people

Acre-feet demand needs are based in Equivalent Units, not population. The population we serve is both transient and permanent and includes commercial users. Therefore, we do not use population.

In 2003, 35,000 AF was used as the size of reservoir projected to be needed in 2075 to serve 62,727 EUs with a one year safety supply (one extra year of annual demand in case water is not available from any other sources, for example in a drought). Five years later, we are reexamining these growth projections and planning horizon.

E-3: PAWSD is in violation of State Statute in its fee collection and usage.

Under Title 32 of the Colorado Revised Statutes, PAWSD is able to collect fees for system development.

E-4: PAWSD has the ability to guide or restrict growth and development.

The County and Town are the agencies that guide development. PAWSD is required to provide water and sanitary sewer service to any development that occurs within its service areas. PAWSD may consider including additional parcels into its service areas if it determines that there is sufficient capacity to support the development at its full build out *and* the developer is willing to pay the cost of extending and/or upgrading PAWSD facilities to meet its needs. The requirement for sufficient water supply is supported by the recent House Bill 08-1141.

PAWSD has had a moratorium on inclusions into its water service area for nearly a decade due to insufficient water supply. If a developer wanted to pay the cost of developing an additional water supply, for example, the total cost of building another reservoir, that moratorium could be lifted. PAWSD also currently has a moratorium on developments that would require the Highlands lagoon for wastewater treatment (areas north of Hatcher/Highlands subdivisions).