



Meeting Date: June 26, 2019
Staff Contact: John M. Stomp III, P.E.

TITLE: C-19-23- Memorandum of Agreement for the San Juan-Contractors Association

ACTION: Recommend Approval

Summary:

Under the Upper Colorado River Basin Compact, New Mexico was apportioned 11.25% of the water available annually from the Upper Colorado River basin. The San Juan-Chama project imports a portion of NM's share of Colorado River water in the Rio Grande basin providing about 96,200 acre-feet per year. The Water Authority has a contract for 48,200 acre-feet per year with the Secretary of the Interior for SJC water. While the Water Authority is the largest SJC contractor, there are a total of 20 SJC Contractors including the Middle Rio Grande Conservancy District, City and County of Santa Fe, Jicarilla Apache, Ohkay Owingeh Pueblo, Espanola and others.

This Memorandum of Agreement (MOA) provides for the establishment of a San Juan-Chama Contractors Association (Association). This MOA provides for the SJC Contractors to work cooperatively to protect and conserve SJC water resources and to monitor the operations, maintenance and financial issues. In addition, the Association will be monitoring water and other legal issues associated with the SJC project including the development of the Drought Contingency Plans and other activities currently underway in the Colorado River.

Approval is requested to delegate authority to the Executive Director to enter into the MOA.

FISCAL IMPACT:

The contribution for this agreement is \$0.50 per acre feet of water under contract which is \$ 24,200.00 per year. This funding will come from the Water Resources Operations budget approved for FY20.

MEMORANDUM OF AGREEMENT
SAN JUAN-CHAMA PROJECT CONTRACTORS ASSOCIATION

This Memorandum of Agreement (herein the “Agreement”) creating the SAN JUAN-CHAMA PROJECT CONTRACTORS ASSOCIATION (herein the “ASSOCIATION or SJCPCA”) is made and entered into and will be effective on _____, 2019.

RECITALS

WHEREAS, in 1962 the Congress authorized the Secretary of the Interior through Public Law 87-483 to construct, operate and maintain the initial stage of the San Juan-Chama Project (“Project”); and

WHEREAS, the Project provides a firm yield of 96,200 acre-feet of water annually for municipal, industrial, agriculture, and other beneficial purposes for the use and benefit of the San Juan-Chama Project Contractors (herein “SJCP Contractors”); and

WHEREAS, all of the parties have contracted for water and are interested in the long-term viability of the Project and in the proper storage and use of Project water; and

WHEREAS, all such parties are political subdivisions, public entities, or federally recognized Indian tribes and are empowered to enter into this Memorandum of Agreement under federal law and the laws of the State of New Mexico; and

WHEREAS, parties have agreed to enter into this Agreement for protection of the Project waters and for the mutual benefit of the water users represented by the parties to this Agreement.

NOW, THEREFORE, IN CONSIDERATION FO THE MUTUAL COVENANTS AND UNDERSTANDINGS HEREIN SET FORTH, THE PARTIES AGREE AS FOLLOWS:

THIS AGREEMENT SHALL HAVE AN EFFECTIVE DATE COMMENCING UPON THE EXECUTION OF THIS AGREEMENT BY SAN JUAN-CHAMA PROJECT CONTRACTORS AND SO RECOGNIZED BY THE ASSOCIATION CHAIR AT A DULY NOTICED CONTRACTORS ASSOCIATION MEETING.

A. PURPOSES

The purposes of the Agreement are to:

1. Protect and conserve the Project water resources allocated to members hereto.
2. Facilitate and enhance working relationships with state and federal agencies regarding their activities associated with the San Juan-Chama Project and water delivered from the Project including, but not limited to:
 - a. Monitor and provide transparent information regarding operation, maintenance, associated budgets, all project costs, and overall management of the Project facilities;
 - b. Monitor water accounting in the Rio Grande and San Juan River basins.

3. Compile and share data and create a data clearinghouse network for information exchange regarding the Project and matters of mutual concern including but not limited to the history of the Project.
4. Provide a mechanism to monitor issues that affect the Project and the members of the Association.
5. Assist in water planning and conservation.
6. Provide a mechanism to disseminate information to the public in order to advance the purposes as described above.
7. SJCP Contractors represent themselves and this MOA will not interfere with the Contractor's individual contracts or disputes, nor their relationship with the Bureau of Reclamation, unless specifically requested by the SJCP Contractor.

B. MEMBERSHIP AND STRUCTURE OF ASSOCIATION

1. The SJCP Contractors and the annual amount of water for which they have contracted are listed in **Appendix A**.
2. Any SJCP Contractor desiring to join this Association may do so at any time by executing this Agreement and providing notice of same to the fiscal agent. SJCP Contractors who have not joined the Association are encouraged to attend and participate in Association meetings.
3. The Association shall be governed by a Board composed of one representative from each member entity to this Agreement. The Board shall adopt bylaws and other policies as needed and consistent with New Mexico state law.
4. The Association shall meet quarterly or at the call of the Chair. The Association shall meet quarterly or at the call of the Chair with the Bureau of Reclamation and the Interstate Stream Commission.
5. At the first official meeting of the Association, the members shall select a Chair, Vice Chair and Secretary who shall serve for a term of 3 years or until their successor is duly selected. A fiscal agent shall also be selected at the first official meeting and shall serve in that capacity for a minimum of one year consistent with a fiscal agent agreement adopted by resolution of the Board.
6. Except as provided below, actions taken on matters brought before the Association shall be based upon the consensus of the members present. Any affirmative action of the Association on fiscal matters shall require the majority approval of the voting membership present at duly organized SJCP Contractors Association meeting.
7. Any member may withdraw from the Association at any time by providing written notification to the Association.

C. AUTHORITY

The Association is authorized to:

1. Receive SJCP Contractor funds, other public funds, and grants to defray the operational and administrative costs of the Association.
2. Engage in cooperative studies and activities related to the Project.
3. Collect and analyze data regarding any aspect of the Project.
4. Enter into contracts for professional services to further the purposes of the Association.
5. Form and establish Committees and Subcommittees.
6. Adopt and approve a budget and accounting procedures which will result in the strict accountability of all receipts and disbursements. During the budget process the expenditures of the Association will be subject to the review and approval of the fiscal agent.
8. The Board shall adopt bylaws and other policies as needed and consistent with New Mexico state law.

D. FISCAL

1. The fiscal agent shall manage the fiscal affairs of the Association.
2. Members of the Association shall be assessed annually on an equitable basis to be determined by the Association. The initial assessment shall not exceed fifty (50) cents for each acre-foot of a Contractor's Project water amount. The Association may also establish special assessments on an as needed basis by the unanimous approval of the Contractors.
3. The fiscal agent shall have control over the investment of Contractors' assessments which shall be held in trust for the parties and for the purposes of this Agreement.
4. Title to assets held by this Association shall transfer to the Contractors in proportion to the amounts contributed in the event the Association is terminated.

E. SOVEREIGN IMMUNITY RETAINED

The Indian nation members of the Association and their Tribal Councils, officers, employees, agents, and consultants hereby expressly retain their sovereign immunity from suit.

F. SEVERABILITY CLAUSE

If one portion of this Agreement is deemed illegal, the remaining portions are severable and shall remain in full force and effect.

G. ENTIRE AGREEMENT AND AMENDMENT

This Agreement merges all previous negotiations between the parties hereto and constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof. No alteration, modification, or amendment hereto shall be valid except when in writing and when signed by the parties. This Agreement may be amended with the written approval of all of the members.

H. TERMINATION

The Association may terminate by the unanimous approval of the remaining SJCP Contractors at a duly noticed meeting.

I. PERIOD

The period of this MOA is perpetual.

J. COUNTERPARTS

This Agreement may be executed in one or more separate counterparts. All of such counterparts shall, when taken together, constitute one and the same agreement.

Signature Lines tbd

Appendix A

Albuquerque Bernalillo County Water Utility Authority	48,200 acre-feet
City of Belen	500 acre-feet
Town of Bernalillo	400 acre-feet
City of Espanola	1,000 acre-feet
Jicarilla Apache Nation	6,500 acre-feet
Village of Los Lunas	400 acre-feet
Middle Rio Grande Conservancy District	20,900 acre-feet
Pojoaque Valley Irrigation District	1,030 acre-feet
Town of Red River	60 acre-feet
City of Santa Fe	5,230 acre-feet
County of Santa Fe	375 acre-feet
Taos Pueblo	2,215 acre-feet
Town of Taos	400 acre-feet
Town of Taos Settlement	366 acre-feet
Village of Taos Ski Valley	15 acre-feet
El Prado WSD	40 acre-feet
County of Los Alamos	1,000 acre-feet
Aamodt Settlement	1,079 acre-feet
Ohkay Owingeh	2,000 acre-feet