

# **RESOLUTION No. #2019-38**

## **IN OPPOSITION TO THE DESIGNATION OF THE GILA AND SAN FRANCISCO RIVERS AS NATIONAL WILD & SCENIC RIVERS RESOLUTION**

**WHEREAS**, Hidalgo County met at a regularly scheduled meeting at the Hidalgo County Manager's Office, in Lordsburg, NM 88045 on November 13, 2019, at 5:30 PM as required by law; and,

**WHEREAS**, NMSA 1978, Section 4-37-1 (1995) provides that Counties have the power to "provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of any County or its inhabitants"; and

**WHEREAS**, pursuant to the Colorado River Basin Project Act of 1968 and the Arizona Water Settlement Act of 2004, Pub.L.108-451, 118 Stat. 3478 ("AWSA"), an annual average of 14,000 acre-feet per year of AWSA water is allocated to New Mexico for beneficial use in New Mexico ("AWSA water"); and,

**WHEREAS**, on November 24, 2014, the ISC, in an open meeting, voted to pursue a New Mexico Unit of the Central Arizona Project ("NM Unit") and to notify the Secretary of the Interior that the State of New Mexico intends to construct a NM Unit; and,

**WHEREAS**, pursuant to the AWSA, the Secretary of the Interior has the authority to design, build, operate and maintain a NM Unit, but must transfer that authority to the New Mexico CAP Entity upon request by the New Mexico CAP Entity, and Hidalgo County is a member of the New Mexico CAP Entity; and,

**WHEREAS**, the Secretary of Interior shall divert water and exercise his rights and authorities pursuant to the New Mexico Consumptive Use and Forbearance Agreement ("CUFA") as ratified by the AWSA, solely for the benefit of the New Mexico CAP Entity and for no other purpose; and,

**WHEREAS**, it is the position of this Board that once diverted or stored, the AWSA water should be managed solely for the benefit of the New Mexico CAP Entity, subject to all governing laws and pursuant to the AWSA, the New Mexico CAP Entity shall own and hold title to all portions of the NM Unit constructed pursuant to the New Mexico Unit Agreement; and,

**WHEREAS**, THE New Mexico Unit Agreement ("NM Unit Agreement") is a contract entered into between the Secretary of the Interior and the New Mexico CAP Entity to effectuate the terms of the AWSA and the CUFA; and pursuant to the CUFA, as ratified by the AWSA, the State of New Mexico, acting through the ISC, has the authority to form or designate the New Mexico CAP Entity; and,

**WHEREAS**, Hidalgo County, through the New Mexico CAP Entity desires to obtain all benefits from (1) the diversion and beneficial use of the AWSA water, (2) the development of other water utilization alternatives to meet water supply demands in the Southwest Planning Region of New Mexico, and (3) the exercise of rights and authorities by the Secretary of the Interior pursuant to Section 212©(4) of the AWSA, Pub. L. 103-451, 118 Stat. at 3528; and,

**WHEREAS**, the National Wild and Scenic Rivers System was created by the Wild and Scenic Rivers Act of 1968 (Public Law 90-542), enacted by the U.S. Congress to preserve certain rivers with outstanding natural, cultural, and recreational values in a free-flowing condition for the enjoyment of present and future generations; and,

**WHEREAS**, rivers may be designated by Congress or, if certain requirements are met, by the Secretary of Interior. Each designated river is administered by either a federal, state, or tribal agency, or as a partnership between any number of these government entities and local NGO's. Designated segments need not include the entire river and may include headwaters and tributaries; and

**WHEREAS**, the designated boundaries of this designation generally average one-quarter mile on either bank in the lower 48 states and one-half mile on rivers outside national parks in Alaska, curtailing private property rights of those landowners within the boundaries; and,

**WHEREAS**, the designation of the Gila and San Francisco Rivers, or portions thereof, will mean that flood control for public safety, irrigation for farms, recreation, and water supplies for the communities downstream would all become secondary uses, of lower priority and therefore subject to restriction if they are in conflict with the nonexistent "natural and free flowing" character of the rivers; and,

**WHEREAS**, the designation of the rivers would prevent the NM CAP Entity from developing water rights, promised under the law and by contract, which will essentially prevent Hidalgo County from utilizing its natural resources for the benefit of its inhabitants; and,

**WHEREAS**, this designation will be yet another social injustice to the people of Hidalgo County.... levied upon them by the Federal Government for the future need of water regarding Agricultural, Municipal, Industrial, and Ecological water needs; and,

**WHEREAS**, these policies, forced upon the people of Hidalgo County by individuals who have never set foot in Hidalgo County's designated land, result in Hidalgo County and a portion of Grant County's inhabitants being forced to choose either to live in their birthplace in poverty or leave Hidalgo County and portion of Grant County for a better life, while the individuals making the policies benefit every day from the undesigned use of their water and land; and,

**WHEREAS**, the taking of a property rights and our collective statutory and contractual rights by these proposed designations harm the entire Hidalgo County as they destroy the fabric of our economy and the family businesses that rely on it; and,

**NOW, THEREFORE, BE IT RESOLVED,** by Hidalgo County that it opposes the designation of the Gila and San Francisco Rivers, or portions thereof, as wild or scenic rivers; and,

**BE IT FURTHER RESOLVED,** that Hidalgo County calls upon its Congressional delegation to oppose any such designation and to work to find more effective and less restrictive means to protect our natural resources while also protecting the rights of the people; and,

**BE IT FURTHER RESOLVED,** that Hidalgo County opposes third special interest groups drafting legislation for presentation by or Congressional Delegation without input from Hidalgo County or public at large, accordingly this Board calls upon the Delegation to provide the public with any such proposed legislation.

Done in session this 13<sup>th</sup> Day of November, 2019 by the Governing Body of the Hidalgo County Commissioners, New Mexico.

\_\_\_\_\_ Joey Mora, Chairman

\_\_\_\_\_ Johnny Hatch

\_\_\_\_\_ Joel Edwards