

ACTION SHEET
CITY COUNCIL COMMITTEE MEETING OF 08/26/15
ITEM FROM FINANCE COMMITTEE MEETING OF 08/17/15

ISSUE:

13. Request for Approval of Restated and Amended Agreement – Lease Water Storage Space in Abiquiu Reservoir for City’s San Juan-Chama Water Allocation; Albuquerque Bernalillo County Water Utility Authority. (William Schneider and Marcos Martinez)

FINANCE COMMITTEE ACTION:

Approved as Consent item.

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

STAFF FOLLOW-UP:

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR TRUJILLO	X		
COUNCILOR RIVERA	X		
COUNCILOR LINDELL	X		
COUNCILOR MAESTAS	Absent		
CHAIRPERSON DOMINGUEZ			

4-13-15

**ACTION SHEET
PUBLIC UTILITIES COMMITTEE MEETING OF 8/5/15**

ISSUE NO. 19

Request for approval of an agreement between the City of Santa Fe and the Albuquerque Bernalillo County Water Utility Authority to Lease Storage Space in Abiquiu Reservoir.
(William Schneider and Marcos Martinez)

Public Utilities Committee – 8/5/15
Finance Committee – 8/17/15
City Council – 8/26/15

PUBLIC UTILITIES COMMITTEE ACTION: Approved to forward to 8/17/15 Finance Committee.

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP:

VOTE:	FOR	AGAINST	ABSTAIN
COUNCILOR RIVERA, CHAIR	X		
COUNCILOR MAESTAS	X		
COUNCILOR BUSHEE	X		
COUNCILOR DIMAS	Absent		
COUNCILOR IVES	X		

City of Santa Fe, New Mexico

memo

DATE: July 27, 2015

TO: PUC

VIA: Nick Schiavo, PUD and Water Division Director *NSA*

FROM: William Schneider, Water Resources Coordinator *W Schneider*
Rick Carpenter, Water Resources and Conservation Manager *RC*

SUBJECT: Water Storage Agreement with Albuquerque Bernalillo County Water Utility Authority for the City's San Juan-Chama Water Allocation

BACKGROUND

The City of Santa Fe receives an annual allocation of 5,230 acre-feet (AF) per year of San Juan-Chama Project water from the federal Bureau of Reclamation. The City can, in certain years, have water left over in Heron Reservoir that must be vacated at the end of the year and stored elsewhere. In addition, at the end of 2014, the City successfully transferred back upstream into El Vado Reservoir approximately 8,500 AF of San Juan-Chama water that had been stored in Elephant Butte Reservoir, but which must also be stored elsewhere. Lastly, on occasion, the City may buy or lease San Juan Chama Project water from other entities, but that water would also need to be stored in a City-controlled reservoir space. Therefore, the Water Division has negotiated the attached storage agreement with the ABCWUA to lease up to 15,000 AF of storage space in Abiquiu Reservoir. The fee for the storage space will not be paid in monetary funds, but rather, ABCWUA has requested to be paid in "wet water" at a rate 10% of the total water that the City of Santa Fe would seek to store in Abiquiu Reservoir. This form of payment is not uncommon for this type of transaction. The City must store its water in the space offered by ABCWUA as no other storage options have been identified, and without such storage capacity the City's water must be vacated out of Heron and El Vado Reservoirs and allowed to flow downstream without being put to beneficial use by the City.

RECOMMENDED ACTION

Staff is requesting approval of the storage agreement with ABCWUA.

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3 Restated and Amended Agreement between the City of Santa Fe and the
4 Albuquerque Bernalillo County Water Utility Authority to
5 Lease Storage Space in Abiquiu Reservoir
6

7 This new Agreement to Lease Storage Space in Abiquiu Reservoir (Agreement) between
8 the Albuquerque Bernalillo County Water Utility Authority (Water Authority), a political
9 subdivision of the State of New Mexico and the City of Santa Fe, New Mexico (City), a
10 municipal corporation of the State of New Mexico, is made this _____ day of
11 _____, 2015, and supersedes the agreement between the Authority and the City dated
12 July 11, 2007.
13
14

15 **Recitals**
16

17 **WHEREAS**, pursuant to NMSA 1978, § 72-1-10, the Water Authority is legal successor to the
18 interest and rights of the City of Albuquerque for storage space in Abiquiu Reservoir under
19 Contract No. DACW47-86-C-0009 dated March 20, 1986 with the U.S. Army Corps of
20 Engineers (Corps); and
21

22 **WHEREAS**, the Water Authority has the right to store up to 170,900 acre-feet under the
23 referenced contract and has the ability to lease storage space to other parties subject to approval
24 from the Corps; and
25

26 **WHEREAS**, the Water Authority has and continues to implement the San Juan-Chama Drinking
27 Water Project to divert and fully utilize the Water Authority's 48,200 acre-feet of San Juan-
28 Chama water for drinking water purposes; and
29

30 **WHEREAS**, the Authority is required under Permit No. 4830 with the Office of the State
31 Engineer to have available 130,000 acre-feet of San Juan-Chama water in Abiquiu Reservoir
32 prior to beginning operations of the Drinking Water Project; and
33

34 **WHEREAS**, the Water Authority currently has about 120,000 acre-feet of San Juan-Chama
35 stored in Abiquiu and is awaiting delivery of the final portion of its 2014 and the full 2015
36 allocation of San Juan-Chama water; and
37

38 **WHEREAS**, the Water Authority desires to continue a good working relationship with the City
39 on storage and other water resources matters; and
40

41 **WHEREAS**, the provisions regarding the storage of water in Abiquiu Reservoir in the July 11,
42 2007 Agreement between the Water Authority and the City have expired; and
43

44 **NOW**, therefore, upon the mutual consideration described by the Agreement, including the
45 covenants and promises contained herein, the adequacy of which is acknowledged by the parties,
46 the Water Authority and the City agree as follows:

1
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3 Agreement
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5 The Water Authority agrees:
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- 7 1. To provide a total of up to 15,000 acre-feet of storage space in Abiquiu Reservoir
8 until December 31, 2025. The actual amount of storage space available shall be
9 determined solely by the Water Authority which shall be based on the amount of
10 space needed by the Water Authority (see paragraph 4 below).
11
12 2. Work with the City to develop a long-term storage agreement in Abiquiu Reservoir
13 for San Juan-Chama water up to elevation 6220.00 MSL.
14
15 3. To provide the City with as much advance notice as practicable whenever exercising
16 the Water Authority's right to require that the City vacate its water from the leased
17 storage space because the Water Authority becomes aware that the space the City
18 has subleased is needed for Water Authority storage.
19

20 The City of Santa Fe agrees:
21

- 22 1. To provide written notification to the Water Authority when water under the terms
23 of this Agreement is to be delivered to Abiquiu Reservoir.
24
25 2. To provide payment of 10% of the delivered water every time the City delivers
26 water into the Water Authority's space. The 10% payment of delivered water by
27 the City under this Agreement will be transferred to the Water Authority's space in
28 Abiquiu Reservoir within 30 days of delivery. The City will provide an annual
29 report of deposits and withdrawals from the leased space to the Water Authority by
30 February 1st of every year.
31
32 3. Not to store San Juan-Chama water that is leased, purchased or otherwise acquired
33 or obtained from any third party without the written approval from the Water
34 Authority.
35
36 4. To take the necessary steps to immediately move the City's San Juan-Chama water
37 from Abiquiu Reservoir to Elephant Butte Reservoir if the Water Authority
38 determines that leased water storage space is not available in Abiquiu Reservoir.
39
40 5. To work with the Water Authority to develop additional storage opportunities and
41 potentially increase the amount of storage in Abiquiu Reservoir. The City
42 recognizes that any additional space obtained belongs solely to the Water Authority
43 in cooperation with the Corps.
44

- 1 6. By September 1, 2015, the City will provide a letter to the Water Authority
2 supporting efforts to obtain the remaining permanent easements around Abiquiu
3 Reservoir which will benefit the City and other entities in the Middle Rio Grande.
4
- 5 7. In 2015, and when possible thereafter, release and deliver water from El Vado or
6 Heron to provide recreational benefits on the Rio Chama by releasing water from El
7 Vado or Heron Reservoir to store in Abiquiu Reservoir during established
8 recreational weekends in cooperation with the Water Authority and federal
9 agencies.
10
- 11 8. The City is responsible for their proportional share of evaporative losses that occur
12 on City San Juan-Chama water stored in Abiquiu including the current and any
13 water added to the reservoir over time. The City will work with the U.S. Bureau of
14 Reclamation to provide the records of the evaporative computation calculated on a
15 monthly basis and ensure that these losses are deducted from the City's account.
16
- 17 9. The City is responsible for their proportional share of the annual cost for storage
18 calculated based on the total amount of water deposited by the City as a percentage
19 of the total 170,900 acre-feet charged to the Water Authority. The proportional
20 share of the cost shall be based on the annual fiscal-year billing provided to the
21 Water Authority by the Corps and shall be payable to the Water Authority.
22
23
24

25 Both parties agree:
26

- 27 1. The amount stored and the storage deadline may be extended by written mutual
28 consent by the Authority's Executive Director and the City's City Manager if
29 executed prior to December 31, 2025.
30
- 31 2. To work cooperatively in developing a long-term agreement in Abiquiu Reservoir
32 for the City and other water management entities for San Juan-Chama water up to
33 elevation 6220.00 MSL.
34
- 35 3. Any claim of tort liability against either the City or the Authority is subject to the
36 privileges and immunities of the New Mexico Tort Claims Act, NMSA 1978, §§
37 41-4-1 through 41-4-30.
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41 IN WITNESS WHEREOF, the City of Santa Fe and the Albuquerque Bernalillo County Water
42 Utility Authority have caused this Agreement to be executed and delivered by its duly authorized
43 representatives as of the date specified below.
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ALBUQUERQUE BERNALILLO COUNTY
WATER UTILITY AUTHORITY

Mark S. Sanchez, Executive Director
Albuquerque Bernalillo County Water Utility Authority

CITY OF SANTA FE

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Mayor

City Clerk

M *MJ* 7/23

City Attorney's Office approved as to form

Finance Director

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Acknowledged by:

UNITED STATES OF AMERICA

Jennifer Faler, Area Manager, Albuquerque Area Office, Bureau of Reclamation

Approved by:

U.S. ARMY CORPS OF ENGINEERS
