

May 21, 2023

James Duran, Forest Supervisor  
c/o Paul Schilke, Winter Sports Coordinator  
Carson National Forest  
P.O. Box 110  
Questa, NM 87556

Submitted online at <https://cara.fs2c.usda.gov/Public//CommentInput?Project=61390>

Dear Supervisor Duran,

I am a parciante and commissioner (secretary) on the Acequia de San Antonio in Valdez, where I live and irrigate 1.25 acres of alfalfa and a number of trees including capulín, lilacs, piñon, blue spruce, and Austrian pine. I water a small container garden from my well, which draws from an aquifer recharged by irrigation from the acequia. I am a native Taoseña, and a professor emerita of anthropology at UNM who has conducted ethnographic and ethnohistorical research in and around Taos for over four decades. Some of my scholarly publications have described and analyzed the impacts of tourism on interethnic relations and conflict over land and water, including the impact of the ski industry on the Rio Hondo watershed (Rodriguez, 1987a; 1987b; 1990).

As a signatory to the comprehensive, meticulously detailed May 19, 2023 Acequia de San Antonio Comments on the Gondola, etc. Draft Environmental Assessment, I concur with the Commission's critique of the spectacularly deficient Draft EA and I endorse all the requested actions the letter enumerates, starting with the demand for a proper and full-scale Environmental Impact Study. The SA Commission letter carefully exposes the myriad yet casually evasive ways the EA fails to comply with the applicable statutes, NEPA regulations, and particularly, Presidential Executive Orders pertaining to Environmental Justice.

My comments below will address a few of the more injurious ways that the EA, the USFS, and TSV/VTSV systematically and repeatedly fail to recognize and address questions of Environmental Justice in the Rio Hondo watershed. They do this first and foremost by excluding the traditional downstream acequia and land grant communities from their official definition of the watershed and impact zone as limited to the area lying between the mouth of Twining canyon and the alpine basin immediately surrounding the resort. They do this also by failing to acknowledge and deal with downstream acequias and land grants as legal subdivisions of the state that should have been included as cooperating agents in the NEPA process from the start. They did it yet again by failing directly to notify downstream acequia commissioners of the 2022 scoping process or the 2023 DEA review process, and by trying to breeze through a fast track approval (in time for construction season) with a 30 day comment period and a single "open house" scheduled at an inconvenient time at an inconvenient location where there would be no opportunity for the public to speak. And they did it again when public pressure compelled them to hold another "open house," where once

again there was no provision for the public to speak, nor even to sit, despite a large proportion of elderly citizens who had taken the trouble to attend, only to find an armed USFS law enforcement officer available should they get out of hand—which they did not. At the same time, TSV and USFS personnel were comfortably seated behind display tables arranged around the room more or less like a job fair. Local acequia parciantes and Arroyo Hondo land grant members and other environmental advocates who attended simply wanted to be heard—which, in terms of the official format, they were not. The very structure of the NEPA process is deeply biased with respect to both culture and class. It is designed and perhaps unwittingly deployed to exclude dissenting or nonconforming grassroots input while purporting to solicit public opinion according to a narrow, restrictive, and in fact exclusionary set of parameters that many locals cannot or do not have time to easily navigate.

Thus it is no accident that the EA ignores a well-documented forty plus year history of downstream protest and litigation against pollution of the Rio Hondo by the resort as well as against the ongoing transfer of water rights out of agriculture to commercial, domestic, and municipal uses at the now rapidly urbanizing resort.

In 1985 I served as an expert witness in a water rights case in Rio Arriba county that came to be known as *Sleeper*, involving the transfer of water rights off the Ensenada ditch to a ski resort. The case became well known in New Mexico water law because the transfer was denied on the grounds that it threatened the public welfare. My argument was that every water right transfer from an acequia to nonagricultural use not only reduces the amount of water available for irrigation, but also removes a vital link in the chain of cooperation, reciprocity, labor, and mutualism required to maintain and operate the acequia as a sustainable system of common pool resource management. The acequia functions as the organizational backbone of the subsistence community it serves. Hence to weaken the acequia is to undermine the social integrity and welfare of the community itself. The self-acknowledged public welfare of an acequia community is further undermined by changes in land use and ownership patterns caused by real estate development secondary to resort growth.

My testimony in *Sleeper* was based on research findings from the Rio Hondo watershed, where parciantes had unsuccessfully protested the transfer of 200 acre feet off the Acequia Madre del Llano to an expanding Taos Ski Valley for the purpose of snowmaking, commercial, domestic, irrigation (to spray newly seeded ski slopes in the heat of summer) and municipal purposes. Additional rights from downstream and even external basins have since been acquired—and continue to be sought—to supply the resort's insatiable commercial ambitions.

Downstream acequias have periodically protested against sewage pollution of the river by Taos Ski Valley since the late 1970s. In the early 1980s their efforts finally resulted in an EIS that, like the present USFS Draft EA, functioned as a justification document for a de facto prior decision, at the time to build a new and better treatment plant with a significantly expanded capacity. The resort's sewage treatment plant has since undergone a succession of upgrades and replacements, all geared to serve

progressively larger crowds, which not long ago peaked at 300,000. Despite TSV's disingenuous PR motto that will it grow 'better, not bigger,' a no-growth option has never been proposed for any of its unending parade of incremental development plans designed to culminate in a Master Plan that some environmental scientists (rather than consultants employed by TSV) fear will ultimately prove unsustainable and potentially catastrophic. A few years ago an allegedly state-of-the-art multi-million dollar sewage treatment plant was installed. But in 2022 it failed to function during peak seasonal demands so an auxiliary treatment facility had to be brought in. Despite a hard fought-for agreement that downstream acequia commissioners would be notified (albeit retroactively) of sewage treatment exceedances, not one has been reported to them since 2019. Independent water quality monitoring of the river by state or local agencies remains sporadic, selective, under reported, and hard to access.

In all fairness I should add that TSV supported the allocation of \$500,000 in federal funds for a Rio Hondo acequia commissioners' proposal, prepared by a university-based natural resource scientist, to carry out two years of multi-sited water quality monitoring along the Rio Hondo, scheduled to begin this June and executed by scientists from NMSU's Water Resources Research Institute. Ideally this should become a permanent program. But in their rush to forge ahead with their plans for continuous development, the resort is not willing to take a pause until, for the first time ever, there will be hard data on what exactly goes into the river, where, and when. Just as they are unwilling to suspend development until their chronic water infrastructure problems are truly resolved.

The final straw for downstream residents came in the winter of 2023 when the ski valley's entire water infrastructure failed because of massive leaks during periods of peak demand, so that twice the resort had to close down for several days. Apart from these emergencies, according to the Taos News, "a recent water study determined that the village's water system has an average water loss rate of between 70 and 80 percent, with the highest amount of unaccounted-for water occurring during peak tourist season when the system experiences the most demand" (Jan 4, 2023). It seems no officials at the resort or beyond have considered what impact the leaks (of chlorinated water?) or their eventual repair will have on downstream water quality and quantity.

After the second shutdown, which ironically occurred during the current comment period, the Commissioners of the San Antonio, Atalaya, and Acequia Madre del Llano publicly called for a moratorium on all development at the resort until the underlying infrastructure problems are definitively solved rather than temporarily repaired as usual. Even an editorial in the *Taos News*, normally a promotional voice for the ski industry, supported this commonsense position. Petitions supporting a moratorium are now circulating among a broad spectrum of the Taos citizenry including, interestingly enough, many local skiers. Upon receiving the moratorium letter, TSV Inc. CEO David Norden requested a meeting with the San Antonio Commissioners. Three generations of Valdeños were present at the meeting, held in the old village Escuelita. Mr. Norden politely listened to their grievances and concerns and suggested future friendly

conversations with acequias—perceived, not surprisingly, as a cosmetic B Corp greenwashing gesture, because meanwhile, true to form, preparations are already well underway for a heavy summer construction season, including projects supposedly still under review by the EA.

The ski industry confidently assumes it can continue developing the upper watershed for profit with impunity, guaranteed by the passive complicity if not active support of federal, state, and local agencies and officials. From its promising beginnings in the late 1950's the ski industry was embraced by the business community and politicians as the solution to Taos's seemingly endemic poverty and feast-famine seasonal tourism cycle. Skiing is a thrilling sport often considered a clean industry compared to mining for example, which also once planted a heavy footprint in the Rio Hondo watershed. But driven by ravenous hunger for profit dependent on growth, the ski industry, like any other, is highly extractive—not just of water, but concomitantly of an alternative, arguably more sustainable future for the watershed as a holistic socio-ecological system.

The environmental injustices perpetuated by the relentless expansion of a resort city for the 1% at the Rio Hondo headwaters have always depended on the erasure of the poorer, minority, land-based downstream agricultural Hispanic communities: their history, their present, and perhaps most importantly, their future as an integral component of the entire watershed system, from its alpine sources through irrigated valleys to the river's confluence with the Rio Grande. The local real estate market's own statistics offer a window into the secondary socioeconomic effects of upstream resort development, including gentrification and a growing wealth disparity in Valdez. Of fifteen regions listed in the greater Taos area, Valdez/Taos Ski Valley real estate prices exhibit the greatest extremes: the highest (\$2,625,000 and the lowest (\$50,000) home sale prices (Enchanted Homes, June/July 2023, p.62).

Recent multidisciplinary research by hydrologists, geologists, biologists, ecologists and social scientists has confirmed and refined scientific understanding of the ecosystem services performed by acequia irrigation as well as their relationship to social-ecological sustainability and resilience. Today's cutting-edge multidisciplinary and multi-institutional social-hydrological research examines and analyzes acequias as integral components of the watershed systems within which they operate (eg. Rosenberg, Guldan, Fernald, Rivera, eds. 2020). Some of these studies involve modeling of interactive systems under variable conditions including climate and socioeconomic changes in order to identify and gauge potential tipping points, including prospects for survival of the acequia communities themselves. Acequias in the Rio Hondo watershed and throughout northern New Mexico function to maintain surface and ground water connectivity.

Hydrologists working in the greater Southwest and other parts of the world are preoccupied with tipping points including the unsustainable prospects for regions where surface and ground water connectivity becomes irrevocably lost. Given the stated intent of the ski resort to continue mining the springs in the upper watershed,

this is precisely the sort of scientific research needed to model and plan for differential future scenarios. Such research is very far from the facile findings of “no impact” served up in the EA on the basis of little or no scientific evidence. The consultants who prepared the EA do not reference such research, some of which has actually focused on the Rio Hondo watershed. Nor have they bothered to consider the effects of aridification, climate change, and consequentially, the widely predicted extinction of winter skiing within a few decades. The resort is becoming an upscale year-round attraction that will require increased amounts of snowmaking and exert heavier demands on summertime water usage as well.

A glossy handout hastily compiled in time for the May 9 USFS “open house” contains some information and assertions not included in the Draft EA regarding water usage at Taos Ski Valley. Included is the claim that the resort’s total consumptive water use comes to only about 1 percent of the combined consumptive use of all the downstream acequias. I believe this claim, compiled by hired consultants, needs to be corroborated by independent, university-based research scientists; and it is the joint responsibility of the USFS and NM OSE to seek out comparative data as a necessary component of a genuine and rigorous Environmental Impact Study.

An important revelation in the handout is that the ski resort is not a named party to the Abeyta Settlement Agreement. This means the resort is not subject to the Settlement’s terms, a pivotal feature of which is universal forbearance on priority calls. The downstream acequias, which struggled to arrive at a negotiated settlement in the Arellano adjudication (consolidated with Abeyta and then seemingly forgotten by the other Settlement parties) redistributed traditional customary allocations or repartos among the three communities of Valdez, Arroyo Hondo and Des Montes, in a manner frankly disadvantageous to Valdez. It should be pointed out that the resort has been careful to acquire and transfer water rights with the earliest possible priority dates. As the saying goes, “water runs uphill to money.” The handout reiterates that their greatest usage occurs in winter for snowmaking, and then ambiguously states that “The Ski Resort welcomes the opportunity to continue to engage in any water use discussions with all stakeholders to ensure the Ski Resort is a good steward of water rights.” This wording sounds very gracious, but it is not good enough. In my opinion the vital matter of water sharing on the Rio Hondo needs to be taken up jointly by the OSE, the USFS, and the TVAA, and not left to the easily professed good intentions of corporate developers. No further development should be approved until this too is dealt with.

The beautiful, fragile, Rio Hondo watershed is not only home to its longtime, deeply rooted human, plant, and animal inhabitants. It is also a microcosm of the global dilemma and existential crossroads at which human civilization find itself. Either we allow state aided corporations to continue plundering what remains of the biosphere—on a path leading to extinction; or else we collectively decide and take action to change direction—in order to mitigate, learn from, and survive the environmental crisis that is unfolding.

Respectfully,

Sylvia Rodríguez, Ph.D.

### **Sources Cited**

Sylvia Rodriguez, The Impact of the Ski Industry on the Rio Hondo Watershed. *Annals of Tourism Research*, 14 (1), pp. 88-103, 1987a.

Sylvia Rodríguez, Land, Water, and Ethnic Identity in Taos. In *Land, Water and Culture*, ed. by Charles Briggs and John Van Ness, University of New Mexico Press, pp. 313-403, 1987b.

Sylvia Rodríguez, Applied Research on Land and Water in New Mexico: A Critique. *Journal of the Southwest*, 32 (3), pp. 298-315, 1990.

Sylvia Rodríguez, Key Concepts for a Multidisciplinary Approach to Acequias, In *Acequias of the Southwestern United States: Elements of Resilience in a Coupled Natural and Human System*, edited by Adrienne Rosenberg, Steve Guldán, Sam Fernald, Jose Rivera. Las Cruces: College of Agricultural, Consumer and Environmental Sciences New Mexico State University, pp. 4-12, 2020.