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CAP absorbs Water Commission

Written by [Benjamin Fisher](#) on October 5, 2016

The long-silent Gila/San Francisco Water Commission convened on Tuesday to dissolve itself and transfer its responsibilities to the New Mexico Unit of the Central Arizona Project Entity, tasked with the controversial, proposed diversion of the Gila River. The commission took the step in hopes that it could help sway New Mexico Interstate Stream Commission policies restricting projects possible under the CAP Entity's purview.

The GSFWC was formed as the successor to the Southwest New Mexico Water Planning Group, a board of more than a dozen local governments, water districts and stakeholders which worked to represent the region in the discussions preceding the completion of the Arizona Water Settlements Act, which enabled the eventually proposed diversion. GSFWC members, in turn, spent the last six months of their regular operation creating the joint powers agreement that eventually formed the CAP Entity.

The GSFWC and CAP Entity, while made up of the majority of the same governmental bodies, had different mission statements. The GSFWC proposed and supported various diversion and non-diversion projects for consideration to the ISC before the diversion itself was chosen. The CAP Entity formed in the wake of the ISC decision to pursue diversion with the explicit goal and responsibility to design, construct, operate and maintain the diversion.

The ISC was specific in its intent for the CAP Entity to pursue only the diversion process. The CAP Entity would like to change that and wants the authority to use non-New Mexico Unit funds for projects other than the New Mexico Unit diversion. Representatives on both boards agreed with shared attorney Pete Domenici Jr. that a good step toward that might be for the GSFWC to name the CAP Entity its successor, even though the ISC has expressed no intention to deviate from their current policy.

"It's a chicken and the egg issue," Domenici told the GSFWC. "The ISC will not consider changing their policy unless the CAP Entity has the authority. But I don't want to assure you that the ISC will anyway. Still, the entity with the best chance to get the ISC to change their position is the CAP Entity."

Eighteen different governmental entities formed the GSFWC, most current members of the CAP Entity. At Tuesday's meeting, though, only eight representatives gathered for the last time. That would not have made the quorum necessary to take action — even though it was to cease existing — except that several of the members claimed to represent more than one of the member entities.

Before those eight representatives voted the end of the GSFWC, they named the CAP Entity their successor.

The decision to dissolve the GSFWC was not unanimously popular at the beginning.

"If the ISC says, 'No, I don't want to change the JPA,' that leaves the non-diversion responsibilities uncovered," said Vance Lee, representing the Hidalgo County Soil and Water Conservation District. "If we dissolve and the ISC won't change, what then? It has to be dependent upon the [joint powers agreement] between the CAP Entity and the ISC."

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Domenici assured the board that they could re-form if they found themselves in that sort of limbo.

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Before the GSFWC did dissolve, Chair Anthony Gutierrez — representing Grant County, although he left his position there for one as the executive director of the CAP Entity — allowed public input. Allyson Siwik, executive director of the Gila Conservation Coalition, expressed her concerns about the procedure of the GSFWC meeting and Gutierrez's presence at its head.

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"I am very concerned that we don't have a Grant County employee or elected representative here," she said. "Did Grant County appoint you again?"

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Gutierrez said the GSFWC had never elected a subsequent chair and Grant County had never removed him from his post. He claimed the GSFWC joint powers agreement contained no language requiring representatives to be elected officials or employees of a member government.



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Siwik's next concern was that only eight people were making the decision.

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"We have people doubling up on their representation here," she said.

Hidalgo County representative Darr Shannon said that the people representing more than one governmental body were designated by each of those bodies.

Gutierrez said that he had reached out to every member organization and that he couldn't force them to attend.

"When I look back, those entities weren't represented for a long time," he said. "If they were concerned, they would be here. I don't know what else to do."

Village of Santa Clara mayor and representative Richard Bauch concurred and made the motion to move ahead.

According to Susan Boe, executive director of the New Mexico Foundation for Open Government, representing more than one organization on a board was irregular but without looking at the GSFWC's founding documents would not say it violated the Open Meetings Act or the group's own rules.

The GSFWC caught flack from another member of the public as well.

"You're all sitting on the same boards, paying yourself and ramming this down the people's throats," said Juatteo Lopez, who had attempted to lead a large group of Aldo Leopold Charter School students into the earlier CAP Entity meeting for public input but turned up an hour and a half late. He went on to say it was "criminal" that Gutierrez had served as the chair of the GSFWC, represented Grant County on the CAP Entity, and then "hired himself" as executive director.

Gutierrez claimed he had done nothing wrong.

"Whether you agree with this board is irrelevant, whether you agree or disagree with the direction of the CAP Entity is irrelevant," he told Lopez from the dais. "I applied to a position just like anybody else. You could have applied. I've done nothing criminal and, frankly, I resent that."

Before the GSFWC convened their meeting, the CAP Entity — again, made up of mostly the same people — passed a resolution expressing the board's intent to accept the title of successor if the GSFWC chose to name them that.

"The CAP JPA limits the CAP to moving forward the New Mexico Unit [diversion]," Domenici said. "It really wasn't a purpose for the GSFWC because the purpose of the GSFWC was to consult on non-diversion projects. It will be a request fairly soon for the ISC to amend that JPA for some small non-diversion projects to come back under the AWSA umbrella. This makes it clear to the ISC that this board is the

successor.”

Benjamin Fisher may be reached at ben@scdailypress.com.

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