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January 12, 2015

SENT VIA EMAIL TO: director@nmfog.org

Susan Boe
Executive Director
115 Gold Avenue SW, Ste. 201
Albuquerque, New Mexico 87102

Re: January 11, 2015 Database Request

Dear Ms. Boe:

The New Mexico Interstate Stream Commission ("NMISC") is in receipt of your request dated January 7, 2015, which is identical to the request you made of the NMISC on November 11, 2014. Specifically, you ask for the following:

An unlocked copy of your daily Excel spreadsheet model of divertable Gila River flows for the period of record that would be allowable under the terms of the Arizona Water Settlement [sic] Act, including the most recent daily flow data from your most recent model.

Notwithstanding the fact that you frame your request for "*An unlocked copy of your daily Excel spreadsheet model of divertable Gila River flows for the period of record that would be allowable under the terms of the Arizona Water Settlement Act*" as one under the Inspection of Public Records Act ("IPRA"), New Mexico Statutes Annotated 1978, § 14-2-1 et seq., it is not. Rather, your request for an "unlocked copy" of the Excel spreadsheet model of divertable Gila River flows constitutes a request for a database and, therefore, is subject to NMSA 1978, § 14-3-15.1(C), which provides:

The state agency that has inserted data in a database may authorize a copy to be made of a computer tape or other medium containing a computerized database of a public record for any person if the person agrees:

- (1) not to make unauthorized copies of the database;
- (2) not to use the database for any political or commercial purpose unless the purpose and use is approved in writing by the state agency that created the database;
- (3) not to use the database for solicitation or advertisement when the database contains the name, address or telephone number of any person unless such use is

- otherwise specifically authorized by law;
- (4) not to allow access to the database by any other person unless the use is approved in writing by the state agency that created the database; and
 - (5) to pay a royalty or other consideration to the state as may be agreed upon by the state agency that created the database.

The NMISC has posted an unlocked copy of the Excel spreadsheet model of divertable Gila River flows on the following website: <http://nmawsa.org/library/diversion-model/isc-awsa-diversion-model/view>. The model is now in the public domain, fully available and accessible to the public in an unlocked form.

With respect to your request for “*the most recent daily flow data from your most recent model,*” we already provided you the most recent daily flow data from the model on November 12, 2014 pursuant to your November 11, 2014, request.

Sincerely,

s/ Amy I. Haas

Amy I. Haas
Acting Director and General Counsel
New Mexico Interstate Stream Commission

cc: Renea Rodriguez

