

Background

The San Luis Rey river basin of northern San Diego County has historically been the home of five bands of Indians: the La Jolla, Pala, Pauma, Rincon and San Pasqual Bands of Mission and Luiseño Indians. Their reservations were established in the late 19th and early 20th centuries with the implied right to the water they needed for survival and economic development.

In the 1890's, the predecessor to the City of Escondido, in an effort to secure water from the San Luis Rey River needed for their community, made an agreement with one of the bands to divert some of the waters of the San Luis Rey River. In 1895, the Escondido Canal was first constructed to divert the San Luis Rey River on the La Jolla Indian Reservation, the most upstream of the five bands, through portions of the Rincon and San Pasqual Reservations, to Lake Wohlford. In the early 20th century, predecessors to the Vista Irrigation District saw an opportunity to augment this supply of local water by creating an impoundment on the San Luis Rey River and enlarging the Escondido Canal. They entered into agreements with the federal government, the owner of the Escondido Canal, and other owners of land along the San Luis Rey River and its tributaries. In 1923, Lake Henshaw was created with the completion of Henshaw Dam.

In 1969, the Indian bands sued the City of Escondido and the Vista Irrigation District, charging, among other things, that federal law protecting Indian reservations' water rights was violated and that the Secretary of the Interior exceeded his authority in reaching water agreements on behalf of the Indian bands. The United States also subsequently sued Escondido and Vista. In 1980 the federal court issued a preliminary ruling upholding the position of the bands and the United States.

Escondido, Vista, the five Indian bands and the federal government were also involved in contested proceedings before the Federal Energy Regulatory Commission (FERC). That case, which also began in 1969, went all the way to the United States Supreme Court. The Supreme Court's 1984 ruling resulted in a split decision that required the parties to go back to FERC and start all over again.

In 1988, a bill sponsored by Congressman Ron Packard was enacted by Congress. This legislation, known as the San Luis Rey Indian Water Rights Settlement Act, provided the critical federal contributions for a settlement that keeps all parties whole. Two of its key provisions provide 16,000 acre-feet per year of water (referred to as Supplemental Water - roughly equivalent to the average annual production of local water from the San Luis Rey River that has historically been developed by both Escondido and Vista) for the benefit of the settlement parties, and \$30 million for the Indian bands for economic development.

Securing the Supplemental Water consumed most of the attention of the parties in the intervening years. The Act provided that the water was to be furnished from the water conserved by the lining of the All American and Coachella Canals. This has involved the parties in several related agreements, including the landmark Quantification Settlement Agreement for the Colorado River. With all of the procurement and transportation agreements in place, the parties were only able to finally focus their attention on final settlement arrangements in recent years.

The Settlement Agreement

The San Luis Rey Indian Water Rights Settlement Agreement has been approved in principle by the Escondido City Council and the Vista Irrigation District Board of Directors but has not yet been endorsed by the Department of the Interior nor approved by the governing bodies of the Bands. As such, it is a draft document which has not been finalized, and is still subject to revision. Nevertheless, there are central principles embodied in the agreement that form the basis of common understanding among the parties.

The first central principle is that Escondido and Vista will continue to receive, either directly or by exchange, about the same amount of water that they have historically received from the local water system at about the same cost. They will continue to operate and maintain the local water system in substantially the same manner as they have in the past but the local San Luis Rey River water will be available for use on the bands' reservations as well as in the Escondido and Vista service areas.

The second central principle is that the Bands will be responsible for the procurement and delivery of Supplemental Water, and that they will then be entitled to use it on their reservations, exchange it for local water developed by the utilities, or sell any surplus to the utilities.

Taken together, these two principles secure a reliable supply of water for the Bands' use and keep Escondido and Vista whole with respect to their investment in and operation of the local water system. When finalized, the parties to the San Luis Rey Indian Water Rights Settlement Agreement look forward to a new era of partnership and peace on the river.

Next Steps

An important next step will be for the Bands to approve the agreement in principle and for the settlement parties to engage the federal government in the final settlement process. Federal support for the final agreement must be secured before the final agreement can be approved by the other parties.

Quotes from Escondido and Vista

"Water is life for the community. Today, after 40 years of discussion, Escondido and the Indian Bands finally have a water source that ends decades of disputes and is beneficial to all parties. It will be one of our most important legacies for generations to come."

– Lori Pfeiler, mayor, city of Escondido.

"I am very pleased that the negotiators for the San Luis Rey settlement parties have been able to develop a comprehensive agreement to resolve our 40-year-old dispute over water rights on the river. Although, we still have to go through an approval process before there is a final agreement, the end is much nearer than it has ever been."

"I think the important consideration is that we have been able to arrive at a mutually satisfactory solution to our respective water needs, taking into account the unique requirements of the Vista Irrigation District, the City of Escondido, and the five Indian bands. The key to the agreement has been making the waters of the San Luis Rey River serve the needs of both the bands on the one hand and Vista and Escondido on the other, while keeping all parties whole with

respect to their water supply. I am especially proud that this agreement establishes a strong and equitable foundation for future cooperation among all the settlement parties.”

– Jo MacKenzie, board president, Vista Irrigation District

Agency/City Information

The Vista Irrigation District is a public agency governed by an elected five-member board. The district provides water service to more than 120,000 people in the city of Vista, and portions of San Marcos, Escondido, Oceanside, and unincorporated areas of San Diego County.

The city of Escondido is a full-service, general-law city with five council members elected at large. The city provides services to nearly 142,000 people.

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