

**SAN JUAN COUNTY, COLORADO BOARD OF COMMISSIONERS
TOWN OF SILVERTON BOARD OF TRUSTEES
MEETING AGENDA**

April 26, 2023

Due to the continuing COVID-19 concerns, San Juan County meetings will be conducted in a hybrid virtual/in-person format. All persons including Board Members, Staff and those with appointments scheduled on the agenda may meet in person or via zoom. At risk participants are strongly encouraged to wear a mask. We encourage community members to participate via zoom. The information necessary to connect to the public meeting is listed below.

4:00 P.M. Board of Health Training Session

CALL TO ORDER: 6:30 P.M.

BOCC Meeting Minutes for April 12, 2023

APPOINTMENTS

6:35 P.M. CTSI

7:00 P.M. Public Hearing-BLM Appeal

7:30 P.M. Charlie Smith

8:00 P.M. Public Hearing-Floodplain

Correspondence:

Resolution 2023-02 to Amend the Zoning and Land Use Regulations Section 10-103.4

Public Comment

Commissioner and Staff Reports

Other

Adjourn

Times listed above are approximate.

Discussion of an agenda item may occur before or after the assigned time.

Next Regular Meeting – May 10, 2023 8:30 A.M.

Join Zoom Meeting

<https://zoom.us/j/92136473203>

Meeting ID: 921 3647 3203

One tap mobile

+16699006833,,92136473203# US (San Jose)

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Dial by your location

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+1 312 626 6799 US (Chicago)

Meeting ID: 921 3647 3203

SAN JUAN COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING WEDNESDAY, April 12, 2023
AT 8:30 A.M.

Call to Order: The meeting was called to order by Chairman Austin Lashley. Present were Commissioners Scott Fetchenhier and Pete Maisel, County Attorney Dennis Golbricht and Administrator William Tookey.

Payment of Bills: Commissioner Fetchenhier moved to authorize payment of the warrants as presented. Commissioner Maisel seconded the motion. The motion passed unanimous.

Minutes: Commissioner Fetchenhier moved to approve the minutes of March 22, 2023 with the corrections that Chairman Lashley was absent and that Commissioner Fetchenhier opened the meeting. Commissioner Maisel seconded the motion. The motion passed unanimously.

Public Health Director Becky Joyce was present to provide the Commissioners with an update and to discuss the required Board of Health training. It was the consensus to set the work session for 4:00 P.M. on April 22, 2023, prior Commissioner Meeting. Also discussed was the lack of heating in the hospital building and the sewer line. Director Joyce also noted that the Health Fair would be held on April 29th in the school gym.

The proposed Sunnyside Gold property transfer was discussed. The EPA provided the County with a comfort letter. Anthony Edwards in person and Rebecca Almons via Zoom were present as was Denny McHarness representing Sunnyside Gold via Zoom. Commissioner Fetchenhier moved to finalize the Transfer Agreement and authorize Chairman Lashley to sign the closing documents. Commissioner Maisel seconded the motion. The motion passed unanimously.

Social Services Director Martha Johnson was present to provide the Commissioners with an update. She also provided the Commissioners with a brief overview of the Social Services programs.

Commissioner Fetchenhier moved to approve Transmittal #12 in the amount of \$29,197.66. Commissioner Maisel seconded the motion. The motion passed unanimously.

Commissioner Fetchenhier moved to approve Transmittal #1 in the amount of \$7,533.95. Commissioner Maisel seconded the motion. The motion passed unanimously.

Commissioner Fetchenhier moved to approve Transmittal #2 in the amount of \$7,388.73. Commissioner Maisel seconded the motion. The motion passed unanimously.

A Public Hearing was held to consider the Liquor License Application for Opus Hut LLC. Travis Mohrman was present to represent the Opus Hut. Upon completion of the public hearing Commissioner Maisel moved to approve the liquor license as submitted. Commissioner Fetchenhier seconded the motion. The motion passed unanimously.

Region 9 requested a letter of support to exempt them from a letter of credit for the regional broadband grant that was submitted. Commissioner Fetchenhier moved to approve the letter to exempt Region 9 as submitted. Commissioner Maisel seconded the motion. The motion passed unanimously.

An Intergovernmental Agreement for the counties participating in Alpine Loop. Info was presented to the Commissioners for their consideration. Commissioner Fetchenhier moved to approve the

Intergovernmental Agreement as presented. Commissioner Maisel seconded the motion. The motion passed unanimously.

A Public Hearing was held to receive comment concerning Improvement Permit Application submitted by Fred App for the Charleston Placer. The application was to allow for the basement of the cabin that was destroyed by an avalanche to be used as secure storage. Because storage is not allowed as a primary use an Exemption to the Land Use Code would be necessary for the application to be approved. The application meets the three requirements for granting an exemption and is a unique situation as the basement was in compliance when the house was intact but is now out of compliance. Upon the completion of the public hearing Commissioner Fetchenhier moved to approve the application with the conditions as presented by staff and recommended by the Planning Commission and to grant an exemption to the Land Use Code do to the unique situation of the application. Commissioner Maisel seconded the motion. The motion passed unanimously.

Commissioner Lashley requested that the Commissioners consider that the County formally withdraw from the BLM Travel Management Plan Appeal. The appeal is specific to the development of a single-track motorized trail in Minnie Gulch. After discussion it was the consensus of the Commissioners to hold a public hearing during the April 26, 2023 meeting before making a decision.

Ambulance Association Director Tyler George was present to submit a request for the licensing of the Associations ambulances. Commissioner Fetchenhier moved to approve the three licenses as submitted by the Silverton San Juan County Ambulance Association. Commissioner Maisel seconded the motion. The motion passed unanimously.

The County Administrator provided the Commissioners with a Sales Tax update.

The Treasurer's monthly report was presented to the Commissioners for their review.

Melissa Smeins and Lisa Merrell of the BLM were present to provide the County with their proposed projects for the 2023 season.

Having no further business, the meeting was adjourned at 2:56 P.M.

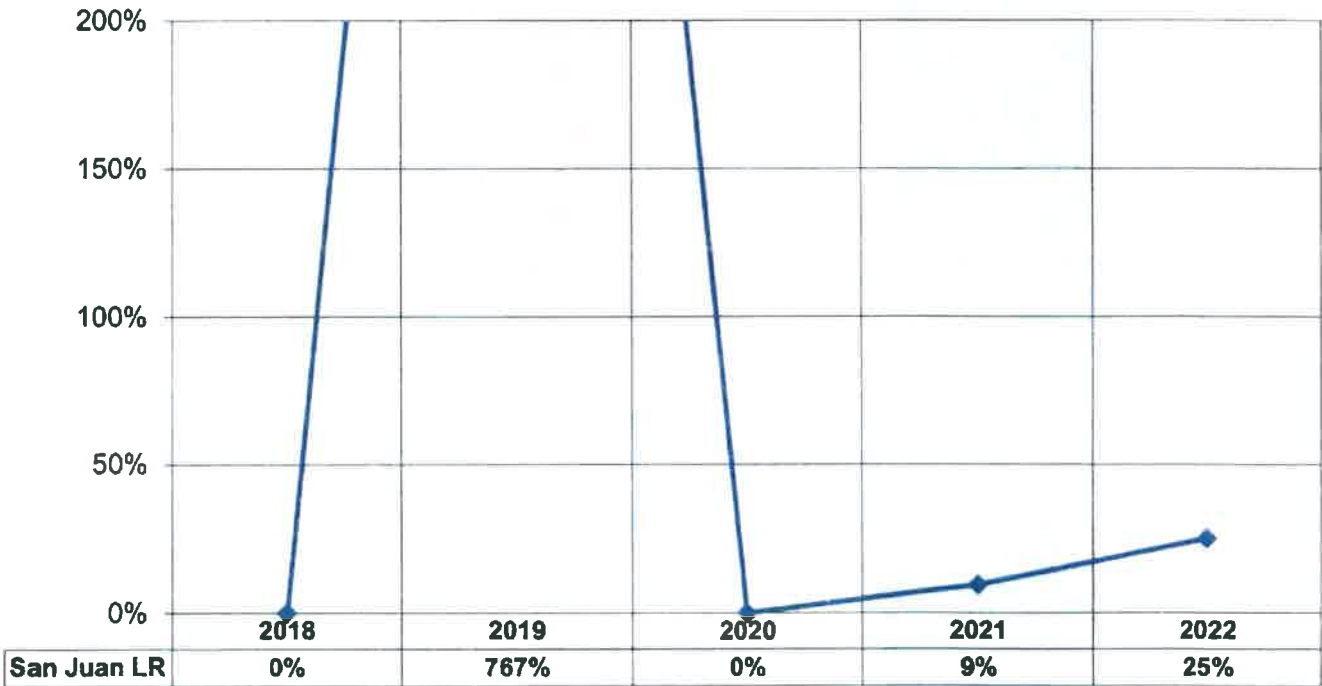
Austin Lashley, Chairman

Ladonna L. Jaramillo, County Clerk

Colorado Counties Casualty Property Pool
Loss Ratio Report
as of December 31, 2022



San Juan County
CAPP Loss Ratio



All claim years subject to change due to activity of claims.

Frequency
of Claims

Severity
\$ of Claims

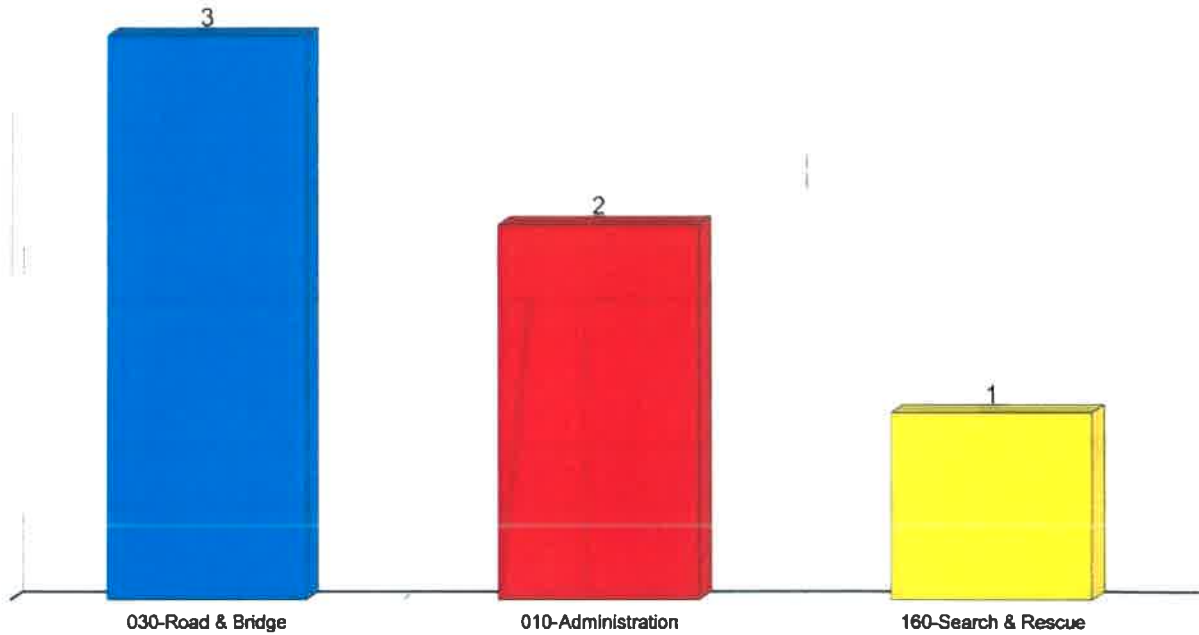
Average Cost
Per Claim

6

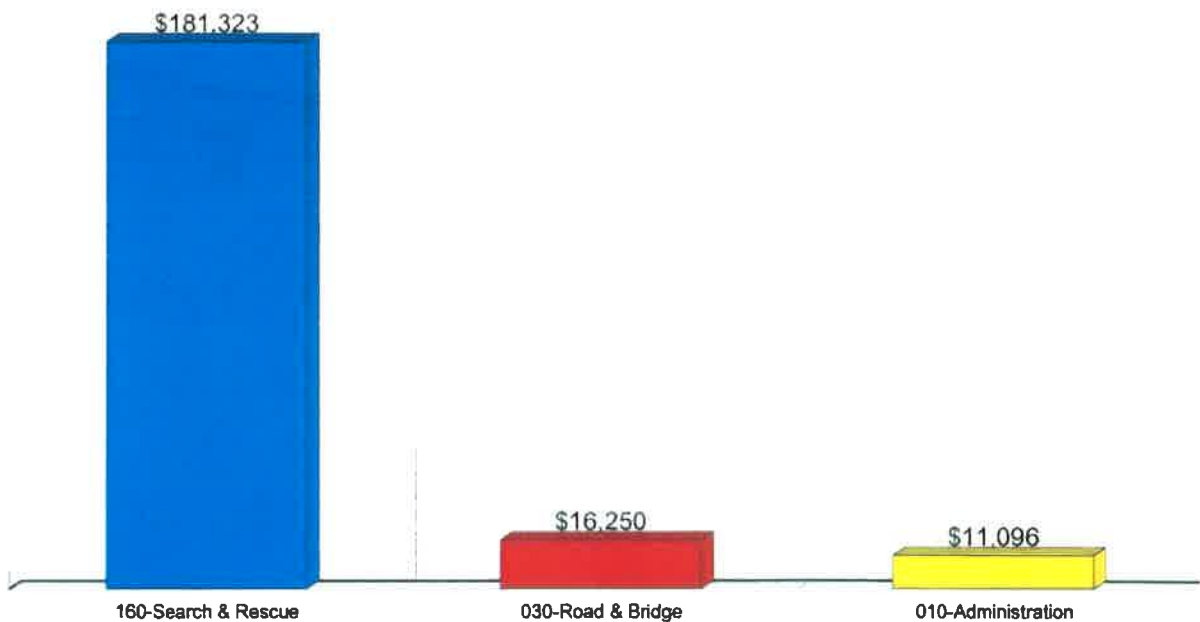
\$208,669

\$34,778

Top Five in Frequency



Top Five in Severity



Frequency
of Claims

Severity
\$ of Claims

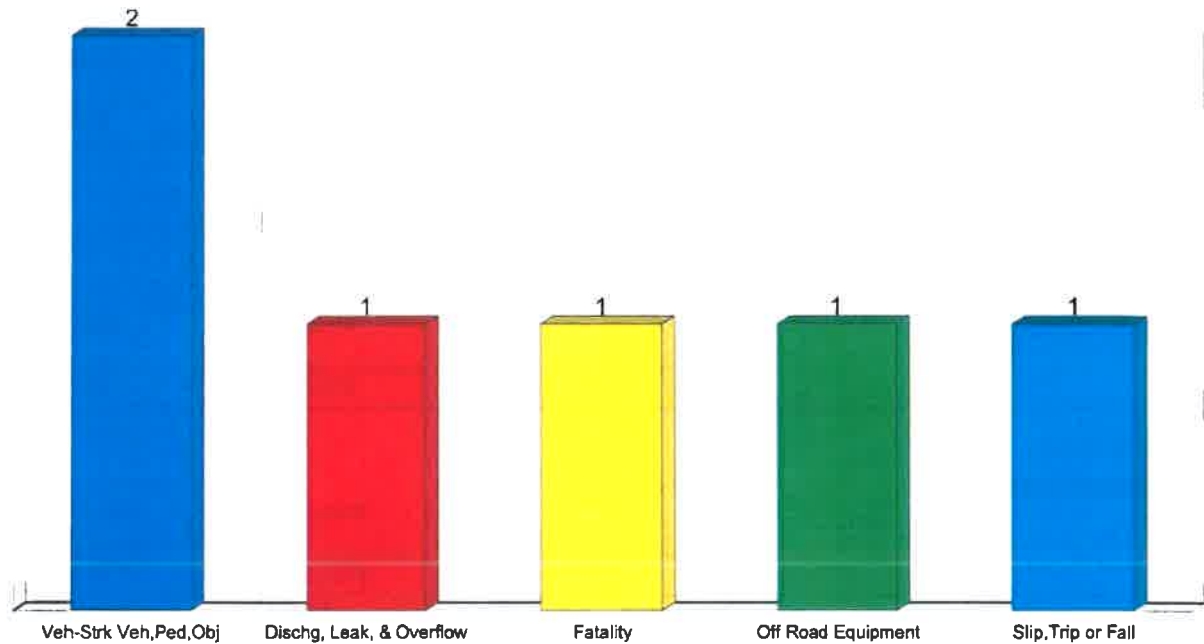
Average Cost
Per Claim

6

\$208,669

\$34,778

Top Five in Frequency



Top Five in Severity



Loss Analysis by County and
Division, Department & Accident - Five Year

Claims From 2018 to 2022 as of December 31, 2022

Division	Department	Frequency of Claims	Severity of Claims	Average Incurred
010-Administration				
<u>010111-Admin Grounds & Bldg Maint</u>				
	Dischg, Leak, & Overflow	1	\$8,199	\$8,199
	Slip, Trip or Fall	1	\$2,897	\$2,897
		<u>2</u>	<u>\$11,096</u>	<u>\$5,548</u>
030-Road & Bridge				
<u>030312-R&B Snow & Ice Removal</u>				
	Off Road Equipment	1	\$0	\$0
<u>030314-R&B Fleet Maintenance</u>				
	Veh-Strk Veh, Ped, Obj	2	\$16,250	\$8,125
		<u>3</u>	<u>\$16,250</u>	<u>\$5,417</u>
160-Search & Rescue				
<u>160210-Search & Rescue Volunteers</u>				
	Fatality	1	\$181,323	\$181,323
		<u>1</u>	<u>\$181,323</u>	<u>\$181,323</u>
Total		6	\$208,669	\$34,778

Loss Analysis by Pool by Accident

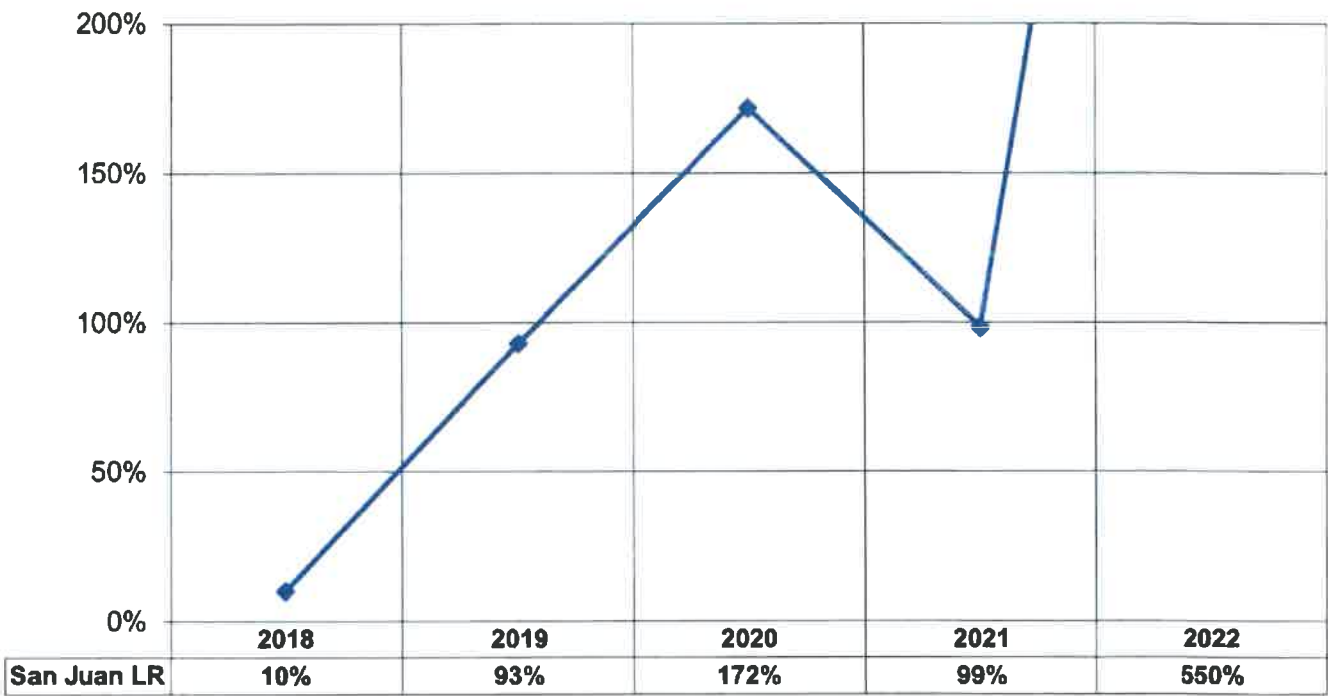
Claims From 2018 to 2022 as of December 31, 2022

Accident	Frequency # of Claims	Severity \$ of Claims	Average Cost Per Claim
Fatality	30	\$19,432,616	\$647,754
Hail/Wind	107	\$9,231,649	\$86,277
Emp Term-Subj to Deduct	65	\$3,989,552	\$61,378
Inmate Related	93	\$3,406,998	\$36,634
Suicide or Attempted	11	\$3,302,397	\$300,218
Arrest Related	61	\$3,035,029	\$49,755
Veh-Strk Veh,Ped,Obi	509	\$2,713,238	\$5,331
Lightning/Snow/Rain	33	\$1,542,192	\$46,733
Govt Process or System	19	\$1,469,568	\$77,346
Veh-Jackknife,Rollover	30	\$1,444,068	\$48,136
Veh-Rear End Acc	181	\$1,417,707	\$7,833
Veh-Ice On Road	70	\$1,153,530	\$16,479
Wrongful Death	11	\$1,153,471	\$104,861
Criminal Activity	4	\$1,036,747	\$259,187
Veh-Fail to Yield ROW	75	\$1,011,790	\$13,491
Veh-Struck Animal	221	\$1,002,913	\$4,538
Legal Process	81	\$1,000,656	\$12,354
Dischg, Leak, & Overflow	49	\$769,633	\$15,707
Veh-Emerg Resp/Pursuit	82	\$735,843	\$8,974
Veh-Backing	349	\$680,309	\$1,949
Constitutional Violation	49	\$628,400	\$12,824
Vandalism	107	\$553,637	\$5,174
Weather	40	\$514,816	\$12,870
Fire, Smoke, Explosion	14	\$472,267	\$33,733
Veh-Front End Coll	15	\$386,675	\$25,778
Wrongful Entry	2	\$348,752	\$174,376
Veh-Sideswp,Lane Chg,Pass	102	\$348,645	\$3,418
Network Liability	7	\$327,216	\$46,745
Veh-Ran Off Rdwy	18	\$262,446	\$14,580
Veh-Intersection Acc	25	\$259,982	\$10,399
Struck Object	117	\$257,128	\$2,198
Veh-Fail to Allow C/mce	32	\$252,776	\$7,899
Veh-Train Accident	1	\$241,556	\$241,556
Temperature Extremes	9	\$210,909	\$23,434
Defamation or Slander	22	\$204,682	\$9,304
Veh-Loss of Control	30	\$195,561	\$6,519
Slip,Trip or Fall	134	\$189,968	\$1,418
Errors & Omissions	18	\$138,031	\$7,668
Off Road Equipment	99	\$120,400	\$1,216
Employment Related	3	\$107,551	\$35,850
Alleged Acc-Ins Unaware	61	\$104,146	\$1,707
Discrimination	12	\$100,407	\$8,367
Street or Roadway	190	\$73,898	\$389
Falling or Thrown Object	70	\$61,237	\$875
Sexual Harassment	5	\$60,654	\$12,131
Health, Safety & Welfare	3	\$53,362	\$17,787
Veh-Trk or Tractor Trlr	3	\$51,313	\$17,104
Animal or Insect	8	\$49,087	\$6,136
Veh-Passgr Bus	9	\$44,294	\$4,922
Sewer or Water	1	\$43,259	\$43,259
Gunshot	4	\$28,885	\$7,221
Veh-Rocks From Truck	59	\$22,789	\$386
Elec Surge-Not Lightning	10	\$22,012	\$2,201
Building Related	3	\$8,271	\$2,757
Bodily Injury	11	\$5,947	\$541
Others	102	\$22,925	\$225
	3,476	\$66,303,789	\$19,075

**County Workers' Compensation Pool
Loss Ratio Report
as of December 31, 2022**



**San Juan County
CWCP Loss Ratio**



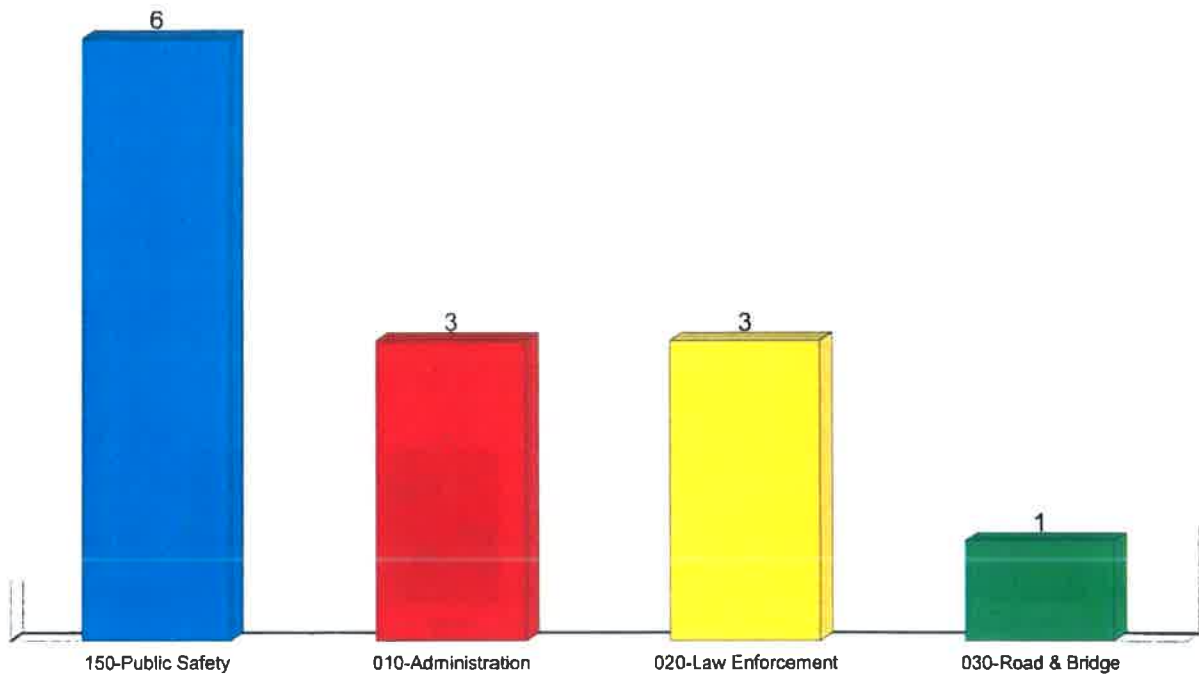
All claim years subject to change due to activity of claims.

Loss Analysis by County by Division

Claims From to 2018 through 2022 as of 12/31/22

	Frequency # of Claims	Severity \$ of Claims	Average Cost Per Claim
	13	\$238,567	\$18,351

Top Five in Frequency



Top Five in Severity



Loss Analysis by County by Accident

Claims From to 2018 through 2022 as of 12/31/22

Frequency
of Claims

Severity
\$ of Claims

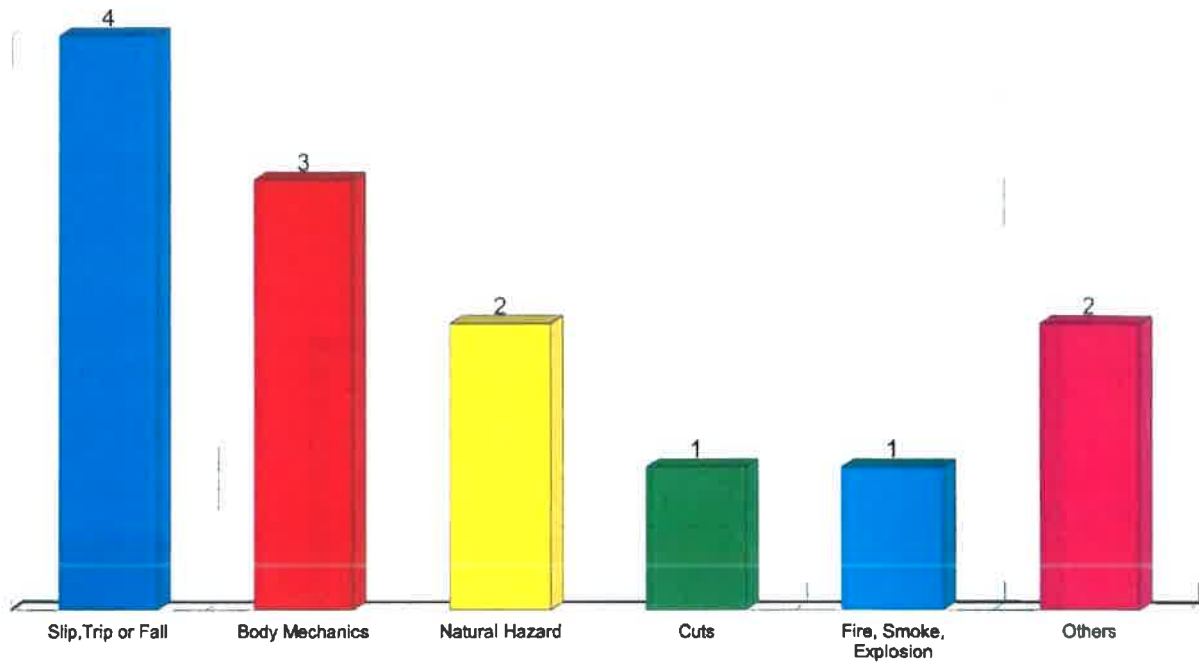
Average Cost
Per Claim

13

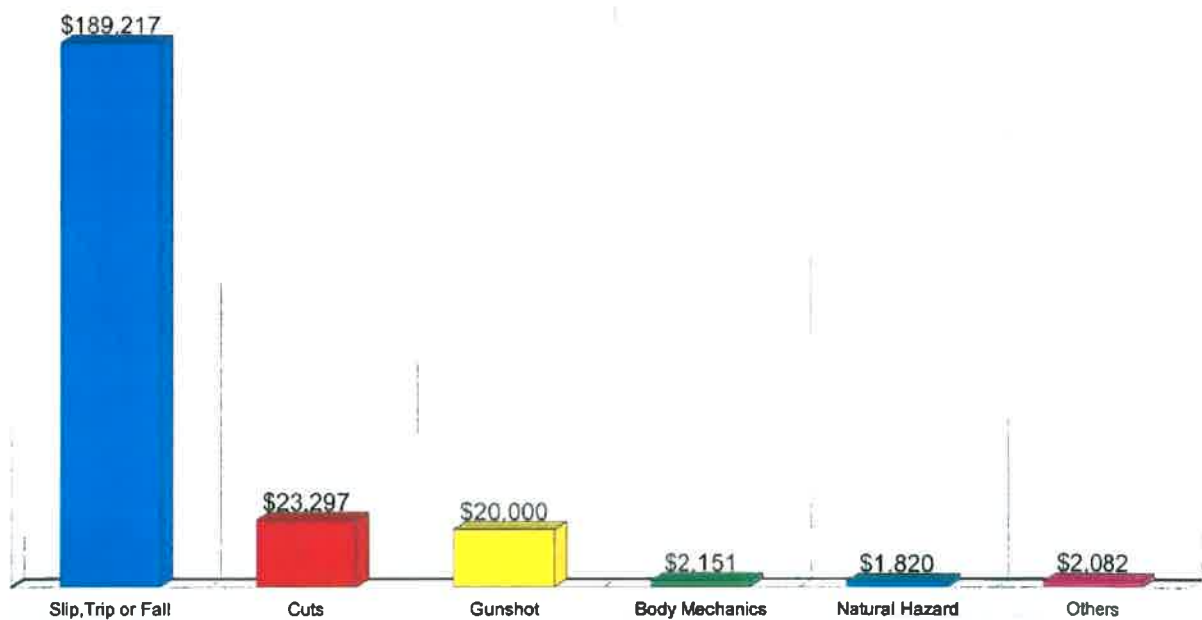
\$238,567

\$18,351

Top Five in Frequency



Top Five in Severity



County Workers' Compensation Pool

Loss Analysis by County and
Division, Department & Accident - Five Year

San Juan



Claims From 2018 to 2022 as of December 31, 2022

Division	Department	Frequency of Claims	Severity of Claims	Average Incurred
010-Administration				
<u>010102-Admin Administration</u>				
	Slip, Trip or Fall	1	\$38,096	\$38,096
<u>010111-Admin Grounds & Bldg Maint</u>				
	Lifting	1	\$753	\$753
<u>010150-Admin Coroner</u>				
	Slip, Trip or Fall	1	\$114,752	\$114,752
		<u>3</u>	<u>\$153,602</u>	<u>\$51,201</u>
020-Law Enforcement				
<u>020202-Sheriff-Patrol Division</u>				
	Body Mechanics	2	\$2,151	\$1,076
	Gunshot	1	\$20,000	\$20,000
		<u>3</u>	<u>\$22,151</u>	<u>\$7,384</u>
030-Road & Bridge				
<u>030309-R&B Maintenance</u>				
	Slip, Trip or Fall	1	\$33,766	\$33,766
		<u>1</u>	<u>\$33,766</u>	<u>\$33,766</u>
150-Public Safety				
<u>150216-Public Safety Fire Department</u>				
	Body Mechanics	1	\$0	\$0
	Cuts	1	\$23,297	\$23,297
	Fire, Smoke, Explosion	1	\$1,329	\$1,329
	Slip, Trip or Fall	1	\$2,603	\$2,603
<u>150217-Public Safety Emergency Response</u>				
	Natural Hazard	2	\$1,820	\$910
		<u>6</u>	<u>\$29,049</u>	<u>\$4,842</u>
Total		13	\$238,567	\$18,351

County Workers' Compensation Pool



Loss Analysis by Pool by Accident

Claims From 2018 to 2022 as of December 31, 2022

Accident	Frequency # of Claims	Severity \$ of Claims	Average Cost Per Claim
Slip, Trip or Fall	1,043	\$10,378,813	\$9,951
Body Mechanics	381	\$3,755,332	\$9,857
Inmate Related	451	\$2,563,730	\$5,685
Lifting	235	\$1,989,043	\$8,464
Training	194	\$1,805,714	\$9,308
Veh-Sideswp, Lane Chg, Pass	6	\$1,472,135	\$245,356
Falling or Thrown Object	163	\$1,459,036	\$8,951
Veh-Rear End Acc	39	\$837,313	\$21,470
Exposure Blood/Bodily Fluids/Disease	196	\$788,149	\$4,021
Struck Object	196	\$782,879	\$3,994
Arrest Related	229	\$717,702	\$3,134
Veh-Loss of Control	43	\$699,267	\$16,262
Veh-Viol Traff Ctrl Device	3	\$635,665	\$211,888
Veh-Strk Veh, Ped, Obj	21	\$619,128	\$29,482
Push, Pull	50	\$599,189	\$11,984
Cumulative Trauma	94	\$457,624	\$4,868
Veh-Emera Resp/Pursuit	11	\$416,145	\$37,831
Veh-Fail to Yield ROW	25	\$393,514	\$15,741
Jumping, Running	14	\$369,718	\$26,408
Confront w/Others	36	\$364,426	\$10,123
Step in Hole	21	\$279,485	\$13,309
Animal or Insect	163	\$251,488	\$1,543
Stress-Mental	26	\$249,156	\$9,583
Cuts	129	\$238,000	\$1,845
Fire, Smoke, Explosion	12	\$215,262	\$17,939
Caught in/btwn Equip	148	\$211,925	\$1,432
Chemical or Other Exposure	151	\$186,642	\$1,236
Veh-Intersection Acc	17	\$167,539	\$9,855
Human Action	8	\$155,757	\$19,470
Noise	16	\$151,234	\$9,452
Gunshot	6	\$124,467	\$20,745
Veh-Jackknife, Rollover	16	\$122,330	\$7,646
Veh-Trk or Tractor Trlr	10	\$121,195	\$12,119
Reaching	10	\$116,938	\$11,694
Veh-Ice On Road	6	\$101,130	\$16,855
Bodily Injury	10	\$85,095	\$8,509
Attack by Inmate	11	\$81,337	\$7,394
Assault & Battery	10	\$60,190	\$6,019
Needle Stick	50	\$54,043	\$1,081
Foreign Body in Eye	40	\$43,099	\$1,077
Veh-Passng Bus	1	\$41,224	\$41,224
Veh-Ran Off Rdwy	8	\$37,600	\$4,700
Veh-Front End Coll	8	\$31,390	\$3,924
Weather	3	\$29,482	\$9,827
Equip & Power Tools	22	\$27,003	\$1,227
Veh-Struck Animal	7	\$26,497	\$3,785
Strain	6	\$25,341	\$4,224
Veh-Other Driving	8	\$16,008	\$2,001
Glass	12	\$10,651	\$888
Mold Exposure	2	\$10,000	\$5,000
Veh-Backing	7	\$5,961	\$852
Heart/Chest Pains	7	\$5,706	\$815
Lightning	5	\$5,385	\$1,077
Elec Surge-Not Lightning	4	\$5,348	\$1,337
Veh-Train Accident	2	\$4,958	\$2,479
Others	52	\$23,105	\$444
	4,444	\$34,426,490	\$7,747



Willy Tookey <admin@sanjuancolorado.us>

Regarding San Juan County Appeal of BLM Travel Man Plan- Minnie Gulch

1 message

Nancy Berry <nanpar@frontier.net>
To: sanjuancounty@frontier.net

Mon, Apr 24, 2023 at 9:01 PM

April 24, 2023

Dear County Commissioner,

I feel it is the duty of the Commissioners to move forward with the Appeal of BLM, Gunnison Resource Area, Travel Management Plan regarding Minnie Gulch. There is not very many miles of non-motorized trails in San Juan County while there are miles and miles of 4x4 roads available for motorized recreation.

The upper Minnie gulch trail to the Continental Divide should not become a motorcycle trail just because Pole Creek was designated years ago as motorized. That is no reason to allow a high alpine foot trail that accesses the CDT, which is NOT motorized, to become motorized. High Alpine is the key word here; short growing season and the basin is a very wet and marshy area. This is not a piece of public land that needs to be destroyed by noise and motorcycle tracks on and off the trail. It is currently quiet on the foot trail after leaving the 4wheel drive road, but would not be so if motor dirt bikes are allowed. Also, I don't believe any survey of threatened and endangered species of flora or fauna was done in the BLM analysis, which begs the question of what may be disturbed or displaced by motorized use.

The damage and noise from such an impulse decision to the Alpine Ecosystem is unacceptable. There is already an overwhelming amount of motorized use in the Alpine Loop. Let's not create more. When the County gave their stamp of approval for the Silverton Trails Plan, Minnie Gulch motorized was not part of that plan. That is one of many reasons the County should stay with the Appeal of this Decision. Do not fold to the motorized group from the Front Range. The dirt bikes can ride miles of designated roads. These vehicles do not belong on this 2 -3 miles of trail.

There was a concern that the Appeal hasn't moved forward. Ask the BLM and Land Board what the status is. These processes usually take time which is why San Juan County should not pull out of the joint appeal of this travel management plan.

I will try to attend the public hearing but if I'm not able to, please make my comments part of the record.

Thank you,

Nancy Berry

nanpar@frontier.net

701 Reese (PO Box 631)

RESOLUTION 2020 - 09

A RESOLUTION OF THE SAN JUAN COUNTY BOARD OF COUNTY COMMISSIONERS
TO APPEAL THE DECISION RECORD FOR THE SILVERTON TRAVEL MANAGEMENT
PLAN AS IT PERTAINS SPECIFICALLY TO THE DECISION TO ALLOW FOR
MOTORIZED SINGLE TRACK USE IN THE UPPER MINNIE GULCH AREA TO THE
INTERIOR BOARD OF LAND APPEALS

WHEREAS, the Board of County Commissioners of San Juan County has an expressed interest in supporting the suitable management of federal lands administered by the Bureau of Land Management (BLM) within the county to preserve and protect the natural and scenic aspects used and embraced by residents and visitors, and

WHEREAS, as part of that interest San Juan County has fully engaged in providing written and verbal input and comments during every phase of the BLM's Gunnison Field Office's Silverton Travel Management Plan process pursuant to the National Environmental Policy Act and Federal Land Policy and Management Act protocols, and

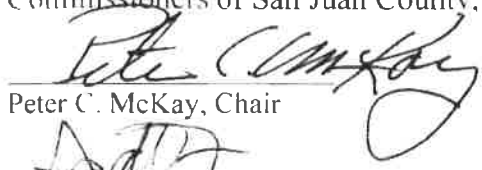
WHEREAS, the Decision Record for the Silverton Travel Management Plan signed September 21, 2020 does not accurately reflect, accept or respond to the formal input and comments from San Juan County and is found not be in the best interests of the County, and

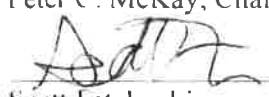
WHEREAS, the county chooses to exercise its legal right to have the Decision Record modified or set aside through the Department of Interior's Interior Board of Land Appeals (IBLA) due to legal deficiencies in the Decision Record,

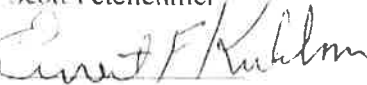
NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SAN JUAN COUNTY, COLORADO;

1. That San Juan County will appeal the Silverton Travel Management Plan decision to the Interior Board of Land Appeals beginning with the filing a Notice of Appeal within 30 days of the signing of the Decision Record.
2. That San Juan County will join with the non-profit conservation organization San Juan Citizens Alliance to appeal the Decision Record.
3. That San Juan County pursues the Interior Board of Land Appeals process knowing that it is an administrative process and not a judicial process.

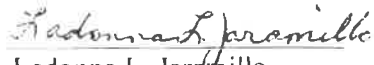
READ, PASSED AND ADOPTED this 14th day of October, 2020 by the Board of Commissioners of San Juan County, Colorado.


Peter C. McKay, Chair


Scott Fetchenhier


Ernest F. Kuhlman

Attest:


Ladonna L. Jaramillo
Clerk and Recorder

**UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
BOARD OF LAND APPEALS**

SAN JUAN CITIZENS ALLIANCE; and)
BOARD OF COUNTY COMMISSIONERS OF)
SAN JUAN COUNTY)
)
)
_____)

Docket No. IBLA-2021-0016

STATEMENT OF REASONS

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STATEMENT OF REASONS

Under 43 C.F.R. Part 4, the San Juan Citizens Alliance (“SJCA”) and the Board of County Commissioners of San Juan County (“County”) (“Co-Appellants”), submit this Statement of Reasons in support of their appeal of the Bureau of Land Management (“BLM”) Gunnison Field Office’s Silverton Travel Management Plan (“STMP”) Decision Record, September 21, 2020, and its Environmental Assessment (“EA”). *See* DOI-BLM-CO-F070-2019-0008-EA.

ISSUES RAISED ON APPEAL

1. Whether BLM violated the National Historic Preservation Act by failing to properly consult with all relevant parties on the proposed undertaking to permit motorized use of Minnie Gulch and on appropriate mitigation measures.
2. Whether the STMP fails to conform to the relevant Resource Management Plan (“RMP”) and fails to properly analyze impacts of the proposal to allow motorized use in Minnie Gulch.

I. STATEMENT OF FACTS

The STMP covers about 67,000 acres in San Juan County, Colorado. Environmental Assessment for the Silverton Travel Management Plan (September 2020) (“Final EA”), AR 7.03-19 at 5. The Silverton Travel Management Area (“STMA”) is largely a subalpine to alpine environment, primarily above 9,000 feet in elevation. *Id.* at 35.

The STMA hosts a substantial portion of the Alpine Loop Backcountry Byway, a series of interconnected backcountry roads popular with four-wheel-drive enthusiasts and sightseers interested in the mining heritage in the San Juan Mountains. Alpine Triangle Final Recreation Area Management Plan (“RAMP”), AR 6.02-2 at 11. The Alpine Triangle RAMP incorporates 240 miles of jeep roads and trails open to various forms of motorized vehicles that creates a motorized network across high alpine passes such as Engineer, Cinnamon, and Stony. *See id.* at 42,

tbl 3.8. The STMA also includes several alpine valleys without any motorized use, specifically including Minnie Gulch. Final EA, AR 7.03-19 at 48.

A. Minnie Gulch and the Ute Trail

The Minnie Gulch Trail traverses an alpine valley entirely above treeline. The Minnie Gulch Trail is a non-motorized trail, 1.6 miles in length, extending from a trailhead at the end of County Road 24 at 11,600 feet in elevation to its intersection with the Continental Divide National Scenic Trail (“CDNST”) at 12,800 feet atop the Continental Divide. *See id.* at 43; Class III Cultural Resource Inventory of BLM Routes Included in the Silverton Travel Management Plan, BLM GFO, (Jan. 1, 2020) (“Class III Inventory”) at 22.¹ The landscape surrounding the upper Minnie Gulch valley is “comparatively pristine”; it “lacks the remnants of mining found elsewhere in the project area.” Final EA, AR 7.03-19 at 59. Minnie Gulch is comprised of expansive alpine tundra and surrounded by 13,000-foot ridges and summits, and in mid-summer is full of fields of alpine wildflowers. SJCA Lands with Wilderness Characteristics Recommendation BLM Gunnison Field Office: Minnie Gulch (Feb. 24, 2020) (“LWC Inventory”), AR 2.07.01-19 at 6. At its upper end, Minnie Gulch Trail connects to the CDNST, providing some of the most sweeping, unrestricted alpine vistas of the entire trail. *Id.* at 7.

¹ Although the Class III Inventory was not part of the original administrative record as provided to the Board, BLM has determined that it is “properly part of the case file for this appeal and is in the process of sending” the document and a revised index to the Board. Ex. 1, Email from Philip Lowe to Lori Potter re: Administrative Record in Appeal 2021-0016, Silverton Travel Management Plan (Dec. 11, 2020).



Minnie Gulch in summer (used with permission).

(<https://debravanwinegarden.blogspot.com/2014/07/half-peak-13841-hourglass-summit.html>)

The Minnie Gulch Trail, also sometimes called the “Minnie Gulch Ute Trail” (or just “Ute Trail”), is an important remnant of indigenous Ute travel routes at high altitude in the San Juan Mountains and contributes to the region’s Ute history. Final EA, AR 7.03-19 at 58. It is one of few verified Ute Trails in the San Juan Mountains and, in concert with other Ute Trails, can provide valuable data regarding Ute transportation routes prior to euro-American contact. Class III Inventory at 22; Final EA, AR 7.03-19 at 58. This brief uses both names for the Trail.

BLM recommended the Minnie Gulch Ute Trail as eligible for nomination to the National Register of Historic Places as a potential Traditional Cultural Property, given its significance to the Southern Ute, Ute Mountain Ute, and Ute Tribe of the Uintah and Ouray Reservation (“Northern Ute”) in January 2020. Class III Inventory at 22–23; Final EA, AR 7.03-19 at 58. In correspondence dated January 8, 2020, BLM explained that a change in use of the Minnie Gulch Trail from non-motorized to single track motorized would result in an adverse effect to the Ute Trail, a conclusion shared by the Ute tribes. BLM Section 106 Concurrence Letter to

Colorado SHPO (Jan. 8, 2020) (“Concurrence Letter”).² To mitigate the impacts caused by the motorized proposal, both the Ute Tribes and the BLM archeologist recommended that the Minnie Gulch Ute Trail remain non-motorized. *Id.* The Colorado State Historic Preservation Office (“SHPO”) concurred with BLM’s determinations of eligibility and effect. *Id.*

According to the Final EA, AR 7.03-19 at 59:

A change in use from singletrack mechanized to singletrack motorized on 2TE (Minnie Gulch) would result in an increase of direct and indirect impacts to historic properties within the trail corridor. Impacts from singletrack motorized use would cause an increase in soil loss that can accelerate down-cutting within a segment of Ute Trail and can unearth fragile prehistoric features within historic properties. Adding singletrack motorized as an authorized use of the trail would increase the overall use of the trail and therefore could lead to increased vandalism of historic properties in and adjacent to the trail corridor.

By adopting this change in use, the trail would be re-routed around the historic properties and direct impacts to the Ute Trail and associated prehistoric site from motorized use would be eliminated, however impacts to visual, atmospheric, and audible elements would increase. The impacts from the construction and motorized use of a new route would compromise the integrity of the cultural landscape and setting which would adversely affect the Ute Trail located in the Minnie Gulch valley. Adverse Effect as defined in 36 CFR 800.5(a)(1) is “when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property’s location, design, setting, materials, workmanship, feeling, or association.” 36 CFR 800.5(a)(2)(v) further states that an adverse effect can occur through “the introduction of visual, atmospheric or audible elements that diminish the integrity of the property’s significant historic features.” The act of constructing and using a new motorized route on or adjacent to the Ute Trail meets the definition of Adverse Effect under 36 CFR 800.5(a)(1).

However, despite the determination of eligibility and adverse effect, and the concurrence that the Minnie Gulch Ute Trail remain non-motorized, BLM instead reversed its position and

² Although the Concurrence Letter was not part of the original administrative record as provided to the Board, BLM has determined that it is “properly part of the case file for this appeal and is in the process of sending” the document and a revised index to the Board. Ex. 1, Email from Philip Lowe to Lori Potter re: Administrative Record in Appeal 2021-0016, Silverton Travel Management Plan (Dec. 11, 2020).

approved a change in use of the Minnie Gulch Ute Trail to motorized. STMP Decision Record (“STMP DR”), AR 7.04-12 at 1. There is no evidence in the Administrative Record that BLM reinitiated consultation with the SHPO, the Ute Mountain Ute, or the Northern Ute on eligibility, effect, or resolution of adverse effects of the final decision on change in use, nor does it discuss any agreement with the SHPO on mitigation measures or resolving the adverse effects of the final approved decision. In fact, just 13 days before BLM issued its decision, Project Manager Lovelace emailed the Field Office Manager and flagged this omission, saying “I am unsure as to the status on SHPO consultation.” E-mail from Jim Lovelace to Gina Phillips Re: Silverton TMP documents ready for review (Sept. 8, 2020), AR 4.01.10-24.

BLM must enter into a Programmatic Agreement or Memorandum of Agreement with the SHPO, consulting tribes, and interested parties prior to authorizing any trails. Ute Mountain Ute Tribal Historic Preservation Office Letter to BLM (“Ute Mountain Ute THPO Letter”) (Mar. 13, 2020), AR 3.03.02-02. As shown in Section III, BLM failed to comply with the National Historic Preservation Act’s regulations on resolving adverse effects of a new Minnie Gulch motorized trail on culturally significant Ute travel routes and failed to obtain concurrence for its decision. Concurrence Letter; Ute Mountain Ute Tribe THPO Letter, AR 3.03.02-02.

B. San Juan County’s Trails Vision

San Juan County has a population of 762. The only town in the county is Silverton. The Alpine Loop is a popular recreation destination. In 2018, almost 314,000 visitors traveled the Alpine Loop’s 240 miles of designated motorized roads and trails. Final EA, AR 7.03-19 at 35.

San Juan County supports motorized recreation opportunities across the county. SJC BoCC EA Comment letter (Feb. 19, 2020) (“County EA Comment”), AR 2.07.04-4. Virtually all of the county’s roads are designated for use by Off-Highway Vehicles. *Id.* The county spends \$100,000 annually to open and maintain backcountry roads for summer use. *Id.*

A Silverton trails master plan was adopted in 2019 that emphasizes its desire for balanced opportunities for both motorized and non-motorized recreation experiences. Silverton Area Trails Plan (Jan. 2019), AR 6.01-1 at 1–2. The plan envisions an integrated network of roads, trails and trailheads that provide geographically separate opportunities for non-motorized experiences. *Id.*

The San Juan County Commissioners repeatedly expressed to BLM their opposition to creating a new motorized trail in Minnie Gulch because of detrimental impacts to non-motorized users, as well as concerns about environmental damage to the alpine tundra, disturbance to elk, incompatibility with the setting of the CDNST, and ability to enforce compliance with travel management rules. San Juan County expressed concerns about the County’s and the BLM’s lack of resources to pursue violators on motorcycles. The Commissioners encouraged BLM to recognize that there is significant motorized use elsewhere across San Juan County and to balance it by keeping Minnie Gulch in a non-motorized status. County EA Comment, AR 2.07.04-4.

The decision to permit motorized use of Minnie Gulch will have financial, personnel, and resource impacts on the County. *See* Ex. 2, Decl. of Scott Fetchenhier, County Commissioner, San Juan County Board of County Commissioners (“Fetchenhier Decl.”) at ¶6. The County and BLM provide significant funding for the Alpine Ranger Program, which focuses on education, compliance, and safety. *Id.* Motorized use of Minnie Gulch will most likely increase costs associated with the Alpine Ranger Program, in addition to Search and Rescue and the operations of County’s Sheriff Department. *Id.* Costs and personnel are expected to be strained to respond to an increase in a more dangerous type of motorized activity in the Minnie Gulch area. *Id.* Additional county resources will be necessary to monitor these areas. *Id.* at ¶7.

San Juan County and SJCA raised these concerns about user conflicts, noise, compatibility with the County's plans, and changes in the character of the existing non-motorized setting of Minnie Gulch during BLM's analysis of the STMP. County EA Comment, AR 2.07.04-4; SJCA Preliminary EA Comments (Feb. 21, 2020) ("SJCA EA Comments"), AR 2.07.01-16.

C. *Directives in the Tres Rios Resource Management Plan*

The STMP's purpose is to designate a transportation system to implement direction contained in the Tres Rios Resource Management Plan. Final EA, AR 7.03-19 at 8. The Tres Rios RMP requires that BLM apply its Recreation Setting Characteristics Matrix ("Matrix") in recreation management decisions. Resource Management Plan & Record of Decision (Feb. 27, 2015) ("RMP"), AR 6.02-12 at II-80. The Matrix contains specific descriptions for physical, social, and operational components. *Id.* at II-81, tbl. 2.15. BLM identified the Silverton Special Recreation Management Area in the RMP and described a range of recreation settings present across the whole area but did not detail these settings by geography. RMP, AR 6.02-12 at II-88, II-155-158. Reviewing the Matrix, Minnie Gulch clearly falls within the Back Country category components for physical, social and operational components. The natural landscape of Minnie Gulch with trails constructed of native materials fits the Back Country physical component, less than seven encounters with people per day and infrequent sounds of people matches the social component, and non-motorized use with infrequent agency staff presence aligns with the operational component. *Id.* at II-81-II-82, tbl. 2.15. However, the STMP EA contains no mention of the Matrix, and has no reference to this requirement. SJCA raised this omission in comments on the Preliminary EA, but the Final EA includes no response. SJCA EA Comments, AR 2.07.01-16.

The Final EA fails to follow the RMP's explicit direction for conducting recreation management decisions. The RMP states BLM will follow the Matrix in the RMP. Unfortunately, the

Final EA never even mentions the Matrix, and leaves reviewers unable to ascertain BLM's compliance with its RMP. "Future recreation management and development decisions on lands managed by the BLM will be guided by both the [Recreation Opportunity Spectrum ("ROS")] settings map and the Recreation Setting Characteristics Matrix." RMP, AR 6.02-12 at II-80. Minnie Gulch currently falls within the RMP's Back Country Classification in the RMP's Matrix as it is a non-motorized natural environment with a native materials trail and infrequent sounds of people. *See id.* at II-80, tbl. 2.15.

BLM's decision to authorize single-track motorized use in Minnie Gulch also opens the trail to new use by E-bikes. Final EA, AR 7.03-19 at 29. The EA incorporates the Tres Rios Field Office RMP Final Environmental Impact Statement ("FEIS") analysis by reference. *See* Final EA, AR 7.03-19 at 12, 95. The FEIS required analysis of user conflicts at the project level. BLM Tres Rios Field Office, Land and Resource Management Plan, Final Environmental Impact Statement (Sept. 2013) ("RMP FEIS") at 408.³ BLM did not conduct site-specific analysis of impacts from user conflicts, noise and soundscape changes, and other impacts in approving construction of a motorized trail in Minnie Gulch. Final EA, AR 7.03-19 at 10-12.

The STMP defers location and design of a proposed new motorized trail alignment in Minnie Gulch to an unspecified future date. STMP DR, AR 7.04-12 at 2. The Decision alludes to a new route generally situated on the slopes above the Minnie Gulch Ute Trail. *Id.* at 2. The EA includes a map of the current Minnie Gulch Trail, but this map depicts the original trail location and not any proposed new trail alignment. Final EA, AR 7.03-19 fig. 2.3.3.1. BLM acknowledges that it has not determined the specific route and no map of it is available. E-mail

³ Although the FEIS was not part of the original administrative record as provided to the Board, BLM has determined that it is "properly part of the case file for this appeal and is in the process of sending" a hyperlink to the FEIS and a revised index to the Board. Ex. 1, Email from Philip Lowe to Lori Potter re: Administrative Record in Appeal 2021-0016, Silverton Travel Management Plan (Dec. 11, 2020).

from Brant Porter to David Smith (Oct. 14, 2020), AR 4.01.12-101. The opportunity for the public to review and comment on impacts to cultural resources, wetlands, wildlife, and user conflict was denied without a specified location of the proposed trail.

D. SJCA and County Participation

SJCA highlighted concerns about user conflicts, noise, and wildlife impacts in comments on the preliminary EA. SJCA EA Comments, AR 2.07.01-16. SJCA noted that converting Minnie Gulch to motorized use would displace current non-motorized users; it also commented that BLM's solution that hikers and equestrians leave the trail and instead travel cross-country would cause braided trails across a landscape dominated by fragile alpine tundra and erosive soils on steep hillsides. *Id.* Minnie Gulch is a very tranquil location, far from the noise of motorized vehicles; many commenters highlighted concerns about impacts of noise from motorcycles in the currently quiet soundscape. County EA Comment, AR 2.07.04-4; SJCA EA Comments, AR 2.07.01-16; Class III Inventory at 23; Final EA, AR 7.03-19 at 59.

E. Impacts on the Continental Divide National Scenic Trail

Congress added the CDNST to the national system of trails in 1978. The 2009 Continental Divide National Scenic Trail Comprehensive Plan (Sept. 28, 2009) ("CDNST Comp. Plan"), AR 6.02-4. It runs 3,100 miles along the length of the Continental Divide through the United States from Mexico to Canada. *Id.* at 4. The BLM's Gunnison Field Office manages a section of the CDNST through the headwaters of Minnie Gulch at an elevation of 12,800 feet. RAMP, AR 6.02-2 at 41. The nature and purposes of the CDNST are to provide for high-quality scenic, primitive hiking and horseback riding opportunities and to conserve natural, historic, and cultural resources along the CDNST corridor. CDNST Comp. Plan, AR 6.02-4 at 4. BLM is required to manage the CDNST to "safeguard the nature and purposes of the trail and in a manner that protects the values" for which the trail was designated. BLM Manual 6280 Chapter

1.6.A.3.i. BLM should not authorize new incompatible activities. BLM Manual 6280 Chapter 5.3.A.2. Establishing a new motorized trail in Minnie Gulch in the CDNST corridor is incompatible with the nature and purposes of the CDNST. The Final EA includes no discussion of BLM management requirements for the CDNST.

II. STATEMENT OF STANDING

Co-Appellants are both affected parties under the Department of the Interior's rules and are permitted to file this appeal with the Interior Board of Land Appeals ("Board"). 43 C.F.R. § 4.410. To demonstrate standing under these rules, an appellant must be both a party to the case and adversely affected by BLM's decision. *Statoil Oil & Gas, LP*, 192 IBLA 32, 39 (2017).

An appellant is a "party to a case" where that party has, *inter alia*, "participated in the process leading to the decision under appeal" by, for example, commenting on an environmental document. 43 C.F.R. § 4.410(b). Both SJCA and the County commented on the Preliminary EA, and otherwise participated in the process through letters, public meetings, and participating in scoping. County EA Comment, AR 2.07.04-4; SJCA EA Comments, AR 2.07.01-16.; SJCA Scoping Comments (July 3, 2019), AR 2.06.01-8; Final EA, AR 7.03-19, Appendix I. Therefore, Co-Appellants are parties to this case.

Moreover, a party is adversely affected when it has a "legally cognizable interest and the decision on appeal has caused or is substantially likely to cause injury to that interest." 43 C.F.R. § 4.410(d). An organization may establish standing through its members when a member "has a legally cognizable interest in the subject matter of the appeal coinciding with the organization's purposes, that is or may be negatively affected by the decision." *Am. Motorcyclist Ass'n*, 188 IBLA 177, 188 (2016). The organization may, as SJCA has here, submit a member's affidavit "attesting to the fact that they use the lands or the resources at issue and that this use is

or is substantially likely to be injured by the decision.” *Cascadia Wildlands & Oregon Wild*, 188 IBLA 7, 10 (2016).

SJCA members and staff spend significant amounts of time recreating in the area that will be governed by the STMP, particularly Minnie Gulch, which use and enjoyment of the area would be negatively impacted by a new motorized trail. *See* Ex. 3, Decl. of Mark Pearson, Executive Director of SJCA (“Pearson Decl.”), at ¶10. Mark Pearson, both a member and staff at SJCA, has consistently visited Minnie Gulch since 1981 and has enjoyed a variety of recreational activities, including hiking, camping, watching wildlife, and enjoying the cultural and archeological resources. *Id.* at ¶12. Most recently, Mr. Pearson spent several days backpacking in and near Minnie Gulch in September 2018 and enjoyed day hikes in the area in October 2020. *Id.* at ¶12. Mr. Pearson values Minnie Gulch in particular due to its remoteness, quietness, solitude, Ute cultural features, and primitive recreation opportunity. *Id.* He intends to continue to visit Minnie Gulch, and permitting motorized use there would diminish the values of the area that are not available on many other public lands in San Juan County. *Id.* at ¶15. Because Mr. Pearson has a legally cognizable aesthetic and recreational interest in the STMP (which aligns with SJCA’s purposes) that will be negatively affected by its approval, SJCA has standing to pursue this appeal.

Similarly, the County has standing to bring this appeal because it too has legally cognizable interests that will, or are substantially likely, to be injured by the approval of the STMP, specifically the decision to permit motorized use of Minnie Gulch. First, the County has an interest in maintaining some areas and trails within the County as non-motorized. *See* Ex. 2, Fetchenhier Decl. at ¶4. The County undertook an extensive planning effort, focused on non-motorized trails, as the community is “overwhelmed” by the heavy use of existing motorized routes. *Id.*

Permitting motorized use of Minnie Gulch will injure this interest by opening up one of the few remaining areas of the County where motorized use is currently prohibited. Second, the County likely will face financial impacts from motorized use in Minnie Gulch, due to an expected increased need for Search and Rescue, operations of the County Sheriff's Department, and the Alpine Ranger Program due to increased activity—indeed more dangerous, motorized activities—in Minnie Gulch. *Id.* at ¶6. Moreover, because the County assists BLM with enforcement and management of trails, it anticipates a strain on the County's human and economic resources as motorized travel increases in Minnie Gulch; motorists will likely travel on non-motorized trails or off-trail, damaging those areas. *Id.* at ¶7. Thus, because the County has financial and recreational interests that will be harmed by BLM's approval of STMP, authorizing motorized use of Minnie Gulch, it has standing to appeal.

III. LEGAL ARGUMENT

In approving the STMP, BLM has opened the pristine, quiet Minnie Gulch area, an important cultural landscape for several Tribes, to motorized use. BLM failed to properly consult with all appropriate parties, including the three Tribes and the SHPO, on the adverse effects of motorizing the area, or on the mitigation measures necessary to resolve the adverse effects. Moreover, BLM did not conform to the Tres Rios RMP in approving motorized use, as the Federal Land Policy and Management Act ("FLPMA") requires. In addition, BLM failed to adequately analyze the alternative it ultimately approved (constructing a new, motorized trail in Minnie Gulch) because the EA does not analyze impacts associated with either construction or a new trail alignment. Finally, BLM failed to consider impacts to the CDNST's nature and purpose, as the new trail will intersect the CDNST and is within the CDNST corridor.

The Board may affirm a BLM decision regarding motorized use only if the decision "adequately considers all relevant factors including environmental impacts, reflects a reasoned

analysis, and is supported by the record, absent a showing of compelling reasons for modification or reversal.” *Rainer Huck*, 168 IBLA 365, 395 (2006). Here, BLM failed on all accounts: it violated the legal requirements of Section 106 of the National Historic Preservation Act of 1966 (“NHPA”); it did not “consider all relevant factors” or reasonably analyze the site-specific impacts of permitting motorized use of Minnie Gulch through constructing a new, motorized trail; and it failed to conform to the RMP, in violation of FLPMA. For these reasons, as discussed below, the Board should overturn the portion of the STMP permitting motorized use of Minnie Gulch and the construction of a new motorized trail.

A. BLM Violated the NHPA Section 106 Consultation Requirements in Approving the STMP.

BLM violated the NHPA by failing to follow Section 106 consultation and review requirements articulated in the State Protocol Agreement and the regulations implementing Section 106. The NHPA requires federal agencies to consult with interested parties on the effects of an agency undertaking on historic properties. 54 U.S.C. § 306108. The Advisory Council on Historic Preservation (“ACHP”) has promulgated rules detailing procedures for agency consultation, 36 C.F.R. §§ 800.3–800.16. The regulations allow federal agencies to create alternative procedures to streamline the Section 106 process. *Id.* § 800.14(b). In 2012, the ACHP, the National Conference of State Historic Preservation Officers and BLM created a national Programmatic Agreement (“National PA”) describing how BLM will meet its Section 106 obligations.⁴ The

⁴ Programmatic Agreement Among the Bureau of Land Management, The Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers Regarding the Manner In Which the BLM will Meet Its Responsibilities Under the National Historic Preservation Act, (Feb.9, 2012), https://www.achp.gov/sites/default/files/programmatic_agreements/2018-06/www.achp.gov_blm_agreement_0.pdf (“National PA”).

National PA required each BLM state director to create, with each respective SHPO, state-specific Protocols for Section 106 Consultation. National PA at 5.⁵

The 2014 State Protocol Agreement (“State Protocol”) between the Colorado BLM and the Colorado SHPO imposes binding requirements on BLM undertakings.⁶ Although the State Protocol streamlines the Section 106 process for BLM and SHPO, it does not eliminate the underlying precepts of Section 106, nor does it circumscribe the process between BLM and other consulting parties. *See* State Protocol at 1; *see also* 36 C.F.R. § 800.14. Route designation constitutes an undertaking that triggers Section 106 review. *See* 36 C.F.R. § 800.16(y). The Section 106 review process has four stages: “initiation, identification, assessment [or evaluation], and resolution.” *United Keetowah Band of Cherokee Indians in Oklahoma v. FCC*, 933 F.3d 728, 745 (D.D.C. 2019) (internal citation omitted).

In winter 2019-2020, BLM sought concurrence from the Colorado SHPO, the Southern Ute Indian Tribe, the Ute Mountain Ute Tribe, and the Northern Ute Tribe on whether motorizing the trail would cause adverse effects. Concurrence Letter; E-mail from Elizabeth Francisco to Betsy Chapoose re: Silverton TMP Draft EA and memo (Dec. 6, 2019), AR 3.03.01-1; E-mail from Suzanne Copping re: Written response to BLM Silverton TMP Draft EA (Requested by 2/29, please) (Feb. 10, 2020), AR 3.03.01-8. BLM acknowledged that the San Juan Mountains are culturally significant to the Tribes. Concurrence Letter. The area within the STMP has six

⁵ The State Protocol only governs the consultation process between BLM and the SHPO; the ACHP regulations set forth the consultation requirements with all other parties.

⁶ State Protocol Agreement Between the Colorado State Director [SD] of the Bureau of Land Management [BLM] and the Colorado State Preservation Officer [SHPO] Regarding the Manner In Which the BLM Will Meet Its Responsibilities under the National Historic Preservation Act [NHPA] And the 2012 National Programmatic Agreement [National PA] Among the BLM, the Advisory Council of Historic Preservation [ACHP], and the National Conference of State Historic Preservation Officers [NCSHPO] (Oct. 2014), <https://www.blm.gov/sites/blm.gov/files/CO%20Protocol.pdf> (“State Protocol”).

prehistoric sites covered by the NHPA. Specifically, the Minnie Gulch area contains a “prehis-
toric site” of small, dispersed lithic scatter, which is an “important site in studies of Ute transpor-
tation routes in the high San Juan Mountains.” Class III Inventory at 21; Final EA, AR 7.03-19
at 58. It also contains portions of the Ute Trail, one of the few verified Ute Trails in the region,
and construction; construction and motorized use of a new route would “compromise the integ-
rity of the cultural landscape and setting.” Class III Inventory at 22–23. Taken together, these
resources are not only cultural resources for the Ute people but also can provide insight into tra-
ditional Ute transportation routes; they are eligible for nomination to the National Register of
Historic Places. Class III Inventory at 21-23; Final EA, AR 7.03-19 at 58. BLM represented
that changing the route designation to single-track motorized use would adversely affect these
historic properties. It recognized that keeping the trail non-motorized was recommended and re-
flected this recommendation in its Preliminary EA. *Id.*; *see also* Preliminary Environmental As-
sessment for the Silverton Travel Management Plan, AR 7.02-7 at 51–62 (discussing the Alter-
natives’ impacts to heritage resources and tribal concerns).

By sending the concurrence letter, BLM began the Section 106 process: it initiated con-
sultation with consulting parties; it identified historic properties; and evaluated whether the
agency’s action would have adverse effects. What BLM failed to do, however, was to perform
the last—and arguably most critical—step in the Section 106 process: resolution of adverse ef-
fects under 36 C.F.R. § 800.6(a). BLM violated the NHPA by issuing the STMP without com-
pleting the Section 106 review process. This process mandates that BLM mitigate adverse ef-
fects, which BLM admits are present with motorized use. Final EA, AR 7.03-19 at 59, 63.

Although BLM included what it called “Protective/Mitigation Measures” in the FONSI and Decision Record, this does not satisfy the legal requirements of Section 106. STMP DR, AR 7.04-12 at 9; Finding of No Significant Impact (“FONSI”), AR 7.04-13 at 1.

1. BLM Failed to Follow Regulations that Guide Resolution of Adverse Effects.

BLM violated the NHPA by failing to follow the Protocol and the ACHP regulations regarding resolution of adverse effects. The State Protocol explains that the “BLM will not allow an undertaking to proceed until mitigation has been completed” State Protocol at 15. Furthermore, “[i]f there are historic properties within an [area of potential effect] that will be adversely affected and may not be treated using [specific types of mitigation measures],” then BLM must follow specific procedures, as well as document the mitigation agreement and finalize the plan prior to the undertaking’s final decision. *Id.* at 17. Likewise, the ACHP regulations require BLM to involve consulting parties, including tribes, to “develop and evaluate alternatives or modifications to the undertaking that could avoid, minimize, or mitigate adverse effects” that should then be codified in a memorandum of agreement. 36 C.F.R. §§ 800.6(a), (c).

Here, BLM has failed on all fronts.

a. BLM violated the NHPA by not reinitiating consultation with SHPO and other consulting parties on ways to mitigate the adverse effects of permitting motorized use in Minnie Gulch and constructing a new motorized trail.

The State Protocol imposes three responsibilities on BLM once it concurs with the SHPO on adverse effects. First, the “BLM will initiate consultation to develop an agreement with SHPO,” and if appropriate, the consulting tribes or other parties. State Protocol at 17. Second, this agreement must be formalized in a memorandum of agreement (“MOA”) or programmatic agreement (“PA”) with the SHPO and other participating parties, unless the mitigation measures are specifically listed in the Protocol as not requiring an MOA or PA. *Id.* at 15. Finally, after the

MOA or PA has been created, BLM must send a copy to the participating signatories and consulting parties. *Id.* at 17. Once completed, the MOA or PA “is a legal contract binding the parties to the terms.” *See Battle Mt. Band of the Te-Moak Tribe of W. Shoshone Indians v. BLM*, 302 F. Supp. 3d 1226, 1235 (D. Nev. 2018).

Likewise, under the ACHP’s regulations, the agency must consult with consulting parties “to develop and evaluate alternatives and modifications to the undertaking that could avoid, minimize, or mitigate adverse effects.” 36 C.F.R. § 800.6. If the parties agree on how to resolve the adverse impacts, they “shall” execute and document the agreed-upon measures in a MOA. *Id.*

BLM did not perform any of these duties with any consulting party. To the first, even though BLM discussed mitigation with the Southern Ute Tribe, there is no evidence that the agency ever met with SHPO to discuss resolution of the adverse effects and other mitigation measures. *See, e.g.*, Final EA, AR 7.03-19 at 74. BLM had consulted with SHPO and the three Tribes to identify the cultural resources, and they had collectively recommended non-motorization of the Trail; because there would be no adverse effects from non-motorization, there was no need to discuss mitigation. Once BLM decided to motorize the trail, however, there would be adverse effects and the BLM needed to work with SHPO and other consulting parties to create a mitigation plan and negotiate an MOA. *See* State Protocol at 15–17. Yet the agency met with only the Southern Ute Tribe to discuss the adverse effects of motorization and measures to mitigate those adverse effects. Final EA, AR 7.03-19 at 74. There is no evidence that BLM consulted with the SHPO, the Ute Mountain Ute Tribe, or the Northern Ute about concrete mitigation efforts once the agency decided to permit motorized use in Minnie Gulch.

BLM apparently concluded that discussion with one consulting party would be adequate. Although the Southern Ute Tribe is one appropriate party to the mitigation consultation, it is not

the only one. The State Protocol requires BLM to work with SHPO to resolve adverse effects. As there is no evidence that BLM has communicated with SHPO since the January 8, 2020 concurrence letter, BLM has violated the NHPA and the State Protocol.

Moreover, BLM violated the NHPA and ACHP's regulations, 36 C.F.R. § 800.6, by ignoring the Ute Mountain Ute and the Northern Ute, although it discussed mitigation measures with the Southern Ute. These Tribes, although they have commonalities, are three distinct sovereign governments; it defies reason to consult with only one when all three have distinct interests and in 2019 had been treated as three distinct consulting parties.

Next, other than the FONSI and the STMP Decision Record, there is no documentation—no MOA or PA—that explains the mitigation terms and conditions. Without this formal document, it is unclear what the mitigation measures actually require and how they will address the adverse effects from constructing a new motorized trail in Minnie Gulch. The lack of a MOA or PA is more than a formality because mitigation measures in an EA are not enforceable, *see Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 352–53 (1989); whereas an MOA is an enforceable contract, *Battle Mt. Band of the Te-Moak Tribe of W. Shoshone Indians*, 302 F. Supp. 3d at 1235.

Finally, even assuming that the mitigation consultation is adequate (it is not) and that the FONSI constitutes a MOA or PA (it does not), BLM still violated the NHPA by not providing the MOA or PA to all consulting parties. State Protocol at 17; 36 C.F.R. § 800.6(c)(9). There is no showing that SHPO or the other two Tribes were privy to the discussion and subsequent decision.

Accordingly, because BLM did not reinitiate consultation on resolving adverse effects, did not consult with all required parties, did not properly prepare an agreement, and thus could

not share the document with consulting parties, BLM violated the State Protocol, the ACHP regulations, and Section 106 of the NHPA, putting historic and cultural resources in danger of irreversible harm.

- b. BLM ignored the Protocol's prohibition on issuing a mitigation agreement concurrently with its final decision on the Silverton Travel Management Plan.

In addition to the inadequacies with the mitigation process, BLM also violated the State Protocol and NHPA by issuing mitigation measures concurrently with the final decision on the STMP. The State Protocol specifically requires otherwise: "When an agreement is required, BLM must complete the Section 106 process with an executed MOA or PA *prior to making a final decision on a proposed action.*" State Protocol at 18 (emphasis added).

BLM finalized the STMP at the same time it issued the FONSI with alleged mitigation measures negotiated privately with the Southern Ute Tribe. The State Protocol bars this timeline; thus, BLM violated the NHPA. To comport with the NHPA, BLM should have finalized the MOA or PA before finalizing the proposed action.

- c. There is no evidence of BLM's documentation regarding resolution of adverse effects.

Finally, BLM's failure to provide adequate documentation violates the NHPA and impedes the public's ability to understand the reasoning behind BLM's actions. NHPA regulations state that agencies "shall ensure that a determination, finding, or agreement under the procedures . . . is supported by sufficient documentation to enable any reviewing party to understand its basis." 36 C.F.R. § 800.11(a).

Here, there is no such documentation. Apart from the FONSI, there is nothing in the record that enables a reviewing party to understand the basis for BLM's mitigation measures or the way it consulted with interested parties.

2. BLM Should Have Consulted with San Juan County, which is the Local Government with an Interest in the Undertaking and the Historic Properties.

BLM acted arbitrarily and capriciously by not including San Juan County as a consulting party. BLM has discretion in determining which consulting parties should participate, but the State Protocol explains that the agency should consider consulting parties that “have a demonstrated interest in a BLM undertaking and its effects on historic properties.” State Protocol at 9. A demonstrated interest includes commenting on BLM actions, meeting with BLM to discuss the impacts, or other involvement. To demonstrate interest in effects on historic properties, the party need not have direct interests, like a tribe does; rather, if the local government has regulations or laws regarding historic properties, that is sufficient to establish an interest in historic properties.

The County meets both criteria. It has consistently demonstrated its interest in BLM’s undertaking of designating routes and otherwise creating travel plans within and around the County. It also has consistently expressed concern that the undertaking, motorizing Minnie Gulch, will have impacts on resources and a cultural landscape important to Southern Ute, Ute Mountain Ute, and Northern Ute. *See, e.g., County EA Comment , AR 2.07.04-4.*

B. BLM’s Decision to Allow Motorized Use in Minnie Gulch is Arbitrary and Capricious and Violates FLPMA and NEPA.

BLM’s approval of the STMP, authorizing motorized use of Minnie Gulch on a newly constructed motorized trail, is arbitrary and capricious and violates FLPMA and the National Environmental Policy Act (“NEPA”). First, the decision does not align with the relevant RMP, as FLPMA and its regulations require. The Silverton TMP did not consider, evaluate, or analyze site-specific impacts of user conflicts, noise, and other impacts to other resources from permitting motorized use of Minnie Gulch or constructing a new trail, as the RMP and NEPA require.

Moreover, the STMP does not use the Matrix, as required by the RMP, and BLM did not respond to SJCA's comments on the Preliminary EA which identified the failure to do so.

Second, BLM approved construction of a new motorized trail in Minnie Gulch, but did not analyze the impacts of construction itself or a new alignment of the trail. Indeed, BLM does not even provide site-specific information on the new alignment of the trail.

Finally, BLM failed to evaluate impacts of motorizing Minnie Gulch on the purpose and nature of the CDNST, as required by the CDNST Comprehensive Plan.

1. The STMP Does Not Include Site-Specific Analysis of Impacts of the Decision to Motorize Minnie Gulch in Violation of FLPMA and NEPA.

FLPMA requires that all resource management decisions conform to the approved land use plan for the area. In other words, "[o]nce a land use plan is implemented 'all future resource management authorizations and actions . . . shall conform to the approved plan.' This means BLM's actions must be 'clearly consistent with the terms, conditions, and decisions of the approved plan.'" *W. Watersheds Project v. BLM*, 721 F.3d 1264, 1268 (10th Cir. 2013) (citing 43 C.F.R. §§ 1601.0-5(b), 1610.5-3(a)).

BLM's approval of motorized use in Minnie Gulch and construction of a new single-track motorized trail does not conform to the RMP, as FLPMA and its implementing regulations require. 43 U.S.C. § 1732(a); 43 C.F.R. § 1610.5-3(a). The RMP requires site-specific analysis for the designation of motorized routes and explicitly acknowledges that most of the Tres Rios Field Office ("TRFO") land "has not undergone site-specific travel management planning." RMP, AR 6.02-12 at II-66. BLM did not conduct site-specific analysis of impacts from noise, user conflicts, soundscape, and other impacts in approving a new motorized trail.

The RMP and its associated FEIS, emphasize that motorized route designations require site-specific analysis: "The planning and environmental analyses for specific motorized route

designations and the implementation of the landscape-level travel management plans are well beyond the scope of this LRMP.” RMP FEIS at 408. The RMP FEIS further notes that analysis of user conflicts will be necessary at the project level: “Efforts to minimize or resolve user conflicts is inherent in each of these travel planning efforts, so the LRMP is not intended to address or resolve specific travel management issues.” RMP FEIS at 409. Likewise, the RMP itself acknowledges that a principal goal of travel management planning is to reduce the development of unmanaged roads and trails and associated impacts to user conflicts. RMP, AR 6.02-12 at II-68.

Despite the RMP’s direction to analyze the site-specific impacts, BLM failed to consider impacts to soundscape, noise, and user conflict, among other consequences, of constructing and establishing a new motorized route in this pristine alpine valley. BLM claims that these are “negligible” impacts for which detailed analysis is not required. Final EA, AR 7.03-19 at 10–11, Appendix H. As to user conflict and impacts to soundscape from permitting motorized use of Minnie Gulch, the EA dismisses these concerns with a conclusory statement that “additional analysis is not necessary to determine the potential significance of impacts.” Final EA, AR 7.03-19 at 10, tbl. 2. To rationalize its omission of analysis of impacts of motorized use in Minnie Gulch, the Final EA confusingly interjects references to the RMP and the prior RAMP, when in fact neither of those documents contains even the slightest mention of Minnie Gulch. *Id.* At the same time, BLM recognizes that “impacts to visual, atmospheric, and audible elements would increase.” *Id.* at 59.

In this regard, BLM is correct: impacts to the soundscape, visual resources, tranquility, and quietness of the area, in addition to user conflicts, will undoubtedly be significant from motorizing Minnie Gulch. Minnie Gulch is a roadless and undeveloped alpine valley, contiguous

with the Handies Peak Wilderness Study Area. LWC Inventory, AR 2.07.01-19 at 6; *see also* Pearson Decl., Attachment A. It is “classic, alpine Colorado wilderness—high, remote and scenic.” LWC Inventory, AR 2.07.01-19 at 6. The area is “one of the few locations you do not currently hear any traffic noises” and permitting motorized use would be “extremely detrimental to the quality of experience for a non-motorized user.” County EA Comment, AR 2.07.04-4. Minnie Gulch is also comparatively pristine, has “minimal impacts to visual, audible, and atmospheric elements” compared to neighboring drainages, and does not have mining remnants found in much of the San Juan Mountains. Class III Inventory at 23. Not only would a newly constructed motorized trail in Minnie Gulch have many significant impacts, it would create a “significant loop opportunity connecting a motorized US Forest Service (USFS) trail,” inducing new traffic and increasing impacts everywhere along that loop trail by an order of magnitude. Final EA, AR 7.03-19 at 22, tbl. 6; *see also* Fetchenhier Decl. ¶4.

To conform with the RMP, and comply with FLPMA and NEPA, BLM had to take a hard look at site-specific impacts of its proposal to motorize Minnie Gulch. Unlike situations where BLM may tier to or rely on specific analyses conducted in a planning or programmatic NEPA document, BLM has never conducted an analysis of the impacts of permitting motorized use of Minnie Gulch or constructing a new, motorized trail, either in the RMP or its associated FEIS, or in the EA for the STMP, as described above. This violates NEPA. *See Kern v. BLM*, 284 F.3d 1062, 1078 (9th Cir. 2002) (explaining that where “there is not analysis in the EIS, the scope of the required analysis in the EA is correspondingly increased” and “the impacts . . . of the site-specific project must be fully analyzed in the EA for that project”). Moreover, BLM did not analyze the cumulative impacts from a loop created with the additional new motorized trail in Minnie Gulch, as NEPA requires. Because the new motorized trail in Minnie Gulch will create a

motorized loop, the “synergistic environmental impact” of the new trail added to the existing system “must be considered together.” *See Kleppe v. Sierra Club*, 427 U.S. 390, 410 (1976). BLM conceded to impacts yet dismissed them as “negligible” and not meriting analysis of their “potential significance” without explanation, despite their having the potential to be significant. Because BLM failed to analyze the site-specific impacts of approving motorized use of Minnie Gulch and constructing a new motorized trail, or explain why such an analysis was not warranted, it violated FLPMA’s requirement to conform to the RMP (which calls for this type of site-specific analysis) and NEPA.

2. The STMP Does Not Conform to the RMP Because it Does Not Utilize the Recreation Setting Characteristics Matrix as the RMP Prescribes.

The RMP also requires BLM to utilize both the recreation opportunity spectrum (“ROS”) map and framework and the Matrix, contained in the RMP, in future recreation management decisions. *See* RMP, AR 6.02-12 at II-80. The STMP is one such future recreation management decision. The RMP describes the purpose of the Matrix as classifying “the settings as primitive, back country, middle country, front country, rural, and urban, broken out into physical, social, and operational components.” RMP, AR 6.02-12 at II-80, tbl. 2.15. The Final EA, however, makes no attempt to differentiate among which settings occur in specific locations across the area covered by the STMP, and in particular what recreation setting applies to Minnie Gulch.

As described in the Final EA, Minnie Gulch is presently a non-motorized natural environment with infrequent sounds of people. The trail is built on native materials. *See* EA, AR 7.03-19 at 50 (“The landscape surrounding the upper Minnie Gulch valley is comparatively pristine and lacks the remnants of mining found elsewhere in the project area The impacts to visual, audible, and atmospheric elements in the upper Minnie Gulch valley from non-motorized use are also presently minimal compared with neighboring drainages.”). Due to these characteristics,

Minnie Gulch should fall within the Back Country components of the Matrix for physical, social and operational components. RMP, AR 6.02-12 at tbl. 2.15. Its physical setting has few modifications and trails of native materials; its social setting has relatively few visitors in small groups and infrequent sounds of people; its operational setting is non-motorized with infrequent agency staffing presence. All of these characteristics squarely place Minnie Gulch in the Back Country Classification pursuant to the Matrix.

The Final EA's omission of any discussion of the Matrix and the applicable Back Country Recreation Setting of Minnie Gulch results in a limited and inaccurate description of the affected environment for the STMP. For example, the Final EA inaccurately describes the analysis area for the STMP generally as "a zone with heavy visitor use and motorized vehicles and equipment are likely to be present," EA, AR 7.03-19 at 38, a description clearly at odds with the Back Country Recreation Setting from the Characteristics Matrix specific to Minnie Gulch. The blanket characterization across the entire analysis area's 67,000 acres ignores the necessary detailed analysis for the several thousand acres of Minnie Gulch specifically.

However, contrary to the RMP's directive to utilize the Matrix, the EA does not contain any reference to the Matrix and has no analysis of the Minnie Gulch area—or any other area affected by the STMP—under the Matrix. Although the Final EA describes that the RMP generally categorized the ROS for STMP area as Semi-Primitive Motorized, it omits the RMP's explicit direction to conduct a detailed analysis to refine desired setting conditions. Because the Final EA failed to apply the Matrix and to conduct site-specific analysis, it does not conform to the RMP and its ROD, in violation of FLPMA and its regulations. *See* 43 U.S.C. § 1732(a); 43 C.F.R. § 1610.5-3(a); *W. Watersheds Project*, 721 F.3d at 1268 (10th Cir. 2013) (explaining

under FLPMA, “BLM’s actions must be ‘clearly consistent with the terms, conditions, and decisions of the approved plan’”).

Moreover, SJCA raised BLM’s failure to conduct an analysis under the Matrix, as required by the RMP, in its comments on the Preliminary EA. SJCA EA Comments, AR 2.07.01-16; Final EA, AR 7.03-19 at Appendix I, 13. Although BLM generally acknowledged the comments in the EA, it did not respond to these comments or rationalize its failure to consider the Matrix in approving the motorized trail. As SJCA noted in its comments, BLM’s failure to conduct an analysis under the Matrix violates the RMP and, consequently, makes it impossible for reviewers to ascertain BLM’s compliance with the RMP.

3. BLM Violated NEPA By Not Analyzing Impacts of An Alternative Involving Construction of a New Motorized Trail in Minnie Gulch.

NEPA requires an agency to discuss the “environmental impacts of the proposed action and alternatives” in an EA. 40 C.F.R. § 1501.5(c)(2). If an agency makes substantial changes to a proposed action that are relevant to environmental concerns, it must prepare a supplemental assessment. *See N.M. ex rel. Richardson v. BLM*, 565 F.3d 683, 705 (10th Cir. 2009) (citing 40 C.F.R. § 1502.9(c)(1)). A supplement is unnecessary when the new alternative is “qualitatively within the spectrum of alternatives that were discussed in the draft and is only a minor variation from those alternatives.” *Id.* (citing *Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations*, 46 Fed. Reg. 18026, 18035 (Mar. 17, 1981)).

In the Decision Record, BLM approved a modified version of Alternative C, which, as described in the Final EA, would change the authorized use on *existing* routes, including the Minnie Gulch Trail, to single-track motorized. However, the modified Alternative that was actually chosen and approved in the Decision Record is a *new* route: “[t]his change in authorized use will occur only after a sustainable alternate alignment . . . is located, cleared, and *constructed*.”

STMP DR, AR 7.04-12 at 2 (emphasis added). The trail approved in the Decision Record will avoid the Ute Trail and will be “built” on the slopes above the existing Ute Trail; BLM will direct all users to “this *new* trail.” *Id.* (emphasis added).

Although BLM purports to approve a change in authorized use of an existing route, it has actually approved both a change in existing use for the Minnie Gulch area *and* the construction of a brand-new trail to allow the new type of use. Nowhere in the Final EA or any other documentation prior to the Decision Record does BLM mention or analyze the impacts of clearing and constructing a new trail in Minnie Gulch, including potential impacts on wetlands, cultural resources, wildlife, and noise, among other things.

BLM’s approval of a “modified” Alternative C without any additional analysis of impacts violates NEPA because it is not merely a “minor variation” of the alternatives analyzed in the EA or a situation where the new alternative recombines components of analyzed alternatives. *N.M. ex rel. Richardson*, 565 F.3d at 705. Instead, as mentioned for the first time in the Decision Record, BLM approved the construction of a brand-new trail in Minnie Gulch without ever analyzing the impacts of construction or a new trail alignment. Courts have rejected arguments that because the *category* of impacts anticipated were analyzed and understood, a substantial change in the “location or extent of impacts [is] immaterial.” *Id.* at 707. Even assuming that the EA adequately analyzed the impacts from a change in designation of the existing route in Minnie Gulch, which it does not, BLM failed to analyze “location or extent of impacts” associated with the location of the new trail, or the impacts from constructing a new trail. BLM simply did not analyze those at all.

In addition to approving a previously unconsidered and unanalyzed alternative, the Decision Record does not include an accurate, site-specific map or description of the new motorized

trail to be built in Minnie Gulch. The Decision Record defers location of the proposed new trail alignment in Minnie Gulch to a future date. The Decision Record simply states that a “sustainable alternate alignment” will be located, cleared, and constructed and that the route will be built “on the slopes above the Ute Trail,” avoid the Ute Trail, and cross the CDNST at a perpendicular angle. STMP DR, AR 7.04-12 at 2. However, without an accurate map or description, the public cannot review and comment on the exact location of the trail and the site-specific impacts to important resources, including wetlands, wildlife, and others. It also makes it impossible for BLM itself to analyze the impacts of the new motorized trail in Minnie Gulch and the impacts from its construction. The EA includes a map of the Minnie Gulch Trail, but this map depicts the currently existing trail location, not the proposed alignment of the new trail. Final EA AR 7.03-19 at Map 2.3.3.1. Without a specified location of the proposed trail, BLM could not properly analyze impacts to cultural resources, wetlands, wildlife, and user conflict. BLM’s failure to identify the location of the motorized trail hinders its ability to analyze site-specific impacts associated with particular trail alignments, as described above, and precludes it from meeting NEPA’s requirement to analyze environmental impacts from a proposed action.

4. The Decision is Incompatible with the Continental Divide National Scenic Trail Comprehensive Plan.

The National Trail System Act of 1968 authorized creation of a national trail system and requires the preparation of a comprehensive plan for national trails. 16 U.S.C. § 1244. Congress designated the CDNST in 1978. The CDNST Comprehensive Plan, published in 2009, describes the nature and purpose of the CDNST and sets forth direction to guide the development and management of the CDNST. The Forest Service acted as lead agency responsible for preparation of the plan which applies to multiple federal agencies, including BLM. Under the Comprehensive Plan, motorized use is prohibited on the CDNST, unless the use is consistent with the applicable

land management plan and “is on a motor vehicle route that crosses the CDNST, as long as that use will not substantially interfere with the nature and purposes of the CDNST.” CDNST Comp. Plan, AR 6.02-4 at 19. In addition, the BLM Manual provides that:

BLM may not permit proposed uses along National Trails which will substantially interfere with the nature and purposes of the trail and the BLM shall make efforts, to the extent practicable, to avoid authorizing activities that are incompatible with the purposes for which such trails were established.

BLM Manual 6280, Chapter 5.3.A.2.

The approved new motorized trail in Minnie Gulch, which would be constructed partly within the CDNST corridor,⁷ would substantially interfere with the nature and purposes of the CDNST, which are to provide for “high-quality scenic, primitive hiking and horseback riding opportunities and to conserve natural, historic, and cultural resources along the CDNST corridor.” *Id.* at 18. Constructing a new motorized trail in Minnie Gulch that would intersect the CDNST will lead to increased motorized use of areas within the CDNST corridor, interfering with the nature and purposes of the CDNST. Because the Final EA failed to discuss or analyze whether permitting motorized use of Minnie Gulch would interfere with the nature and purposes of the CDNST or the management requirements for the CDNST, it cannot ascertain whether the decision complies with the nature and purpose of the CDNST.

⁷ BLM has not established a CDNST Trail Management Corridor, as required by its Manual, which should have been completed in the Tres Rios RMP. The absence of the designated trail management corridor allocation in the land use plan likely contributed to BLM’s failure to analyze impacts of new motorized use within that corridor. BLM uses the term “corridor” to apply to “a public land area of sufficient width to encompass National Trail resources, qualities, values, and associated settings and the primary use or uses that are present or to be restored.” BLM Manual 6280, Chapter 1.D.11. The adjacent Rio Grande National Forest, with which BLM shares management for much of the CDNST corridor in southwestern Colorado, established 1-mile-wide trail corridor (one-half mile on either side). *See* Rio Grande National Forest Land Management Plan (May 2020), at 51, *available at* https://www.fs.usda.gov/nfs/11558/www/nepa/100663_FSPLT3_5291915.pdf.

Moreover, the BLM Manual sets forth certain requirements for a NEPA analysis of project level activities proposed “along a National Trail or within a National Trail Management Corridor.” BLM Manual 6280 Chapter 1.6.A.3.v.c.(2)(i)). Specifically, the Manual requires that for each alternative, BLM “describe and analyze the potential impacts to the nature and purposes of the National Trail, and the National Trail resources, qualities, values, and associated settings and the primary use or uses of the trail.” *Id.* Moreover, under the Manual, a decision record must determine whether the proposed action is compatible with the nature and purpose of the CDNST. BLM Manual 6280 Chapter 1.6.A.3.v.c.(2)(vi)(a)). The Decision Record for the Silverton Travel Management Plan contains no such determination.

IV. CONCLUSION

Because BLM violated NHPA Section 106, FLPMA’s conformity requirement, and NEPA, SJCA and the County respectfully request the Board to vacate the portion of the STMP Decision Record which authorizes construction of a new, motorized trail in Minnie Gulch. Respectfully submitted this 16th day of December, 2020.

s/ Sarah Judkins
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FOR: Board of County Commissioners of San Juan County

CERTIFICATE OF SERVICE

I certify that on December 16th, 2020, in accordance with all applicable rules and pursuant to the COVID Docketing Notice and the Board's March 24, 2020 Order, I served this **STATEMENT OF REASONS** via electronic mail upon:

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s/ William Trull
William Trull
Kaplan Kirsch & Rockwell

Exhibit 1

Archived: Wednesday, December 16, 2020 9:02:26 AM

From: Lowe, Philip C

Sent: Friday, December 11, 2020 10:30:17 AM

To: Lori Potter; Burton, Malia K

Cc: Sarah C. Judkins

Subject: RE: [EXTERNAL] Re: Administrative Record in Appeal 2021-0016, Silverton Travel Management Plan

Sensitivity: Normal

Thanks Lori. Yes, BLM has determined that the three documents from your email of December 8 are properly part of the case file for this appeal and is in the process of sending them (or in the case of the RMP EIS, a hyperlink to the document posted on BLM's website) and a revised index to the Board. For citation purposes you can refer to the document name and its date, as casefiles for IBLA appeals typically are not bates numbered. I've also inquired about the status of your FOIA request and as soon as BLM has information about that I will relay it.

--Phil

Philip C. Lowe

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From: Lori Potter <lpotter@kaplankirsch.com>

Sent: Friday, December 11, 2020 10:22 AM

To: Burton, Malia K <mkburton@blm.gov>; Lowe, Philip C <Philip.Lowe@sol.doi.gov>

Cc: Sarah C. Judkins <sjudkins@kaplankirsch.com>

Subject: [EXTERNAL] Re: Administrative Record in Appeal 2021-0016, Silverton Travel Management Plan

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Phil, thanks for the call this morning. I appreciate your confirming that the 3 items mentioned in my 12/8 email to you and Malia will be added to the AR and its Index. Our SoR is due on 12/16, so I am hoping that you or she can tell us how to cite these 3 docs, in the event that you haven't been able to update the Index by then?

Thanks too for checking into the status of our 11/19 FOIA request, and we appreciate that the response is in the works.

Lori

Lori Potter
303-825-7008

Lori Potter
Attorney at Law


**KAPLAN KIRSCH
ROCKWELL**



On Dec 8, 2020, at 4:46 PM, Lori Potter <lpotter@kaplankirsch.com> wrote:

Phil and Malia, I am writing concerning the omission of three items from the AR, and to ask that BLM provide them to IBLA for inclusion in the AR.

(1) The EIS for the Tres Rios Field Office RMP. The RMP is itself in the AR, but the EIS is omitted. This appears to be an oversight, inasmuch as the EA for the STMP explicitly incorporates the EIS: "The EA incorporates the Tres Rios Field Office RMP EIS analysis by reference." (EA at 12). In that the appealed decision relies on and incorporates this EIS, it should be part of the record. It is found at <https://eplanning.blm.gov/eplanning-ui/project/65211/570>

(2) The January 23, 2020 Concurrence Letter (attached). This is the letter whereby the Colorado SHPO concurs with the BLM's proposed action as part of the NHPA Section 106 Compliance process. Section 106 issues were part of BLM's legal obligation in the decision making for the STMP and the Concurrence letter, sent to BLM by the SHPO, is a clear milestone document in the process, and should be in the record.

(3) Class III cultural resources survey Associated with one of the key, critical trails (Minnie Gulch trail) that played a central role in the STMP and the 106 consultation. This document describes the attributes of the Minnie Gulch trail that make it a candidate for addition to the National Register. These attributes were part of BLM's obligation to consider, consult involved parties on, and avoid adverse impact to (e.g., cultural value, setting, noise impacts). We understand that some resource information is considered confidential and may be why this was initially omitted from the record. However, the SHPO made it available in response to our CORA request, so the Survey is no longer confidential, and is in the public domain. Also, there are ways to protect any sensitive information contained within it, while retaining the description of the cultural values of the Trail and its environs - whose location is well known - for example by selective redaction.

I will forward the survey via separate email due to bandwidth limitations.

In conclusion, the SJCA and San Juan County ask that BLM notify IBLA that these three documents were omitted from the AR, and that BLM promptly provide IBLA copies for inclusion in the AR. SJCA and the County reserve the right to bring any further omissions, if any exist, to your attention promptly after we discover them.

Please let us know by COB Friday, 12/11, of your position on this request. Thank you,

Lori

Lori Potter
303-825-7008

<106 Reivew 75899_19GN013.pdf>

Exhibit 2

**UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
BOARD OF LAND APPEALS**

SAN JUAN CITIZENS ALLIANCE; and)	IBLA Docket No. 2021-0016
BOARD OF COUNTY COMMISSIONERS OF)	
SAN JUAN COUNTY)	Declaration of Standing for Appeal
)	of Silverton Travel Management
)	Plan Decision Record
)	
)	
)	

**DECLARATION OF SCOTT FETCHENHIER IN SUPPORT OF APPELLANT
BOARD OF COUNTY COMMISSIONERS OF SAN JUAN COUNTY**

I, Scott Fetchenhier, being competent to make this statement, do swear and affirm the following:

1. My name is Scott Fetchenhier, and I serve as a county commissioner on the San Juan County Board of County Commissioners, on which I have served since 2012. As a county commissioner, I am responsible for, among other things, overseeing management of natural resources and recreational opportunities within our County. This declaration is based upon my personal knowledge and upon information from county records, which are maintained in the ordinary course of business.

2. I am actively involved in trail plan management and often interact with the Bureau of Land Management's (BLM) Gunnison Field Office, striving to harmonize the County's and federal plans for the lands within and surrounding the County.

3. The County has an interest in managing lands within the county boundaries for use by residents and visitors and the protection of natural resources and wildlife. In 2019, the County issued its 2019 Silverton Area Trails Plan, which was a culmination of a

years-long effort and relied on significant input from our citizens. The plan focuses on improving the quality of life for residents by balancing different recreational opportunities on county lands, including equestrian, hiking, and biking recreational methods. The County worked on this plan with the specific goal to inform several other planning initiatives, including the Gunnison Field Office's Silverton Travel Management Plan.

4. The Silverton Area Trails Plan focused on non-motorized trails because the community clearly felt that there was no need to expand the motorized footprint in the County as the community is overwhelmed by the heavy use of previously authorized motorized routes. As the Silverton Area Trails Plan demonstrates through its support for hiking and biking trails, San Juan County supports opportunities for a wide spectrum of recreational experiences throughout our County and region. However, there are some areas of the County and region that are more appropriate for particular uses, including protecting some areas from motorization and the associated impacts. In particular the County is alarmed at the possible addition of, or the change of trail use designation for, a motorized trail in Minnie Gulch that would facilitate motorized loop travel resulting in an increase of the amount of motorized traffic, a commensurate increase in demand on the county for emergency services, and a multiplication of adverse impacts, including increased noise, reduced solitude, cultural resource impacts, and likely off-trail destruction of delicate tundra areas.

5. The County was actively involved with the Gunnison Field Office's Silverton Travel Management Plan (STMP). The County submitted comments on the preliminary environmental assessment for the STMP in addition to sending letters directly to the Gunnison Field Office further detailing the County's concerns. In its comments, the County

strongly objected to the designation of the Minnie Gulch Trail as single-track motorized due to: the environmental impacts on the tundra, including erosion and braided trails; the adverse impacts on wildlife, particularly elk; the motorized crossing of the Continental Divide National Scenic Trail (CDNST) and the Colorado Trail, which could lead to prohibited motorized use of these trails; the inability of BLM or the County to monitor for violations due to lack of resources (personnel and equipment); the disturbance of the tranquility, solace, and quietness of the Minnie Gulch area; and the concerns of the Southern Ute, Ute Mountain Ute, and Northern Ute Tribes regarding the impacts to an important cultural landscape.

6. The County has several interests that are injured by the BLM's approval of the Silverton Travel Management Plan. First, the County could face increased costs and impacts associated with the motorization of Minnie Gulch under the STMP. Both the County and BLM provide significant funding to ensure the continuation of the County's Alpine Ranger Program for education, compliance, and safety. Increased motorized travel will most likely increase costs associated with Search and Rescue (SAR) and the operations of the San Juan County Sheriff's Department. The County's capacity to monitor and respond to complaints, provide enforcement, and fulfill emergency response requirements through the Sheriff's Department, SAR, and the Alpine Ranger Program will be additionally strained due to the expected increase in activity, especially with the addition of dangerous single-track motorized travel, in the Minnie Gulch area.

7. The County also has a responsibility for trail management for both county lands and other public lands (including federal lands) within the County's boundaries. Although the latter are under the BLM's management, the County helps the BLM with

enforcement and management of the trails. In my experience, allowing motorized travel in the Minnie Gulch area increases the potential for motorists to inadvertently or purposefully travel on non-motorized trails or off-trail, damaging those areas' environmental and aesthetic properties. To effectively monitor these areas, the County will need to provide more oversight, which will strain the County's human and economic resources. The County and BLM are already understaffed, and otherwise under-resourced, and not able to manage the wide-ranging impacts of motorized travel including damage to natural features such as the fragile alpine tundra environment. In my experience the BLM does not have the capacity to monitor motorized trail use or to enforce conditions on that use, and allowing additional such use will only exacerbate that problem.

8. Finally, the County has a demonstrated interest in the recreational opportunities and well-being of its citizens. Through our extensive county-based trail management planning, we've learned that our citizens want a variety of recreational activities, including motorized travel. But our citizens also desire protected areas that offer solitude and are good areas to see or hunt wildlife. Motorized travel in the Minnie Gulch area directly impacts those interests, as motorized travel increases noise levels and negatively impacts the species in these areas, particularly the elk.

9. All of the adverse impacts that I have described will occur even if there is a new motorized trail alignment in Minnie Gulch along with the existing trail. Given the topography, the two trails will be within sight and sound of each other. Creating a new alignment simply increases impacts as well as user conflicts. As stated above, BLM and the County lack the resources to monitor the impacts and enforce conditions on use.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: December 10, 2020

A handwritten signature in black ink, appearing to read "Scott Fetchenhier", written over a horizontal line.

Scott Fetchenhier

Exhibit 3

**UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
BOARD OF LAND APPEALS**

SAN JUAN CITIZENS ALLIANCE; and)	IBLA Docket No. 2021-0016
BOARD OF COUNTY COMMISSIONERS OF)	
SAN JUAN COUNTY)	Declaration of Standing for Appeal
)	of Silverton Travel Management
)	Plan Decision Record
)	
)	

**DECLARATION OF MARK PEARSON IN SUPPORT OF APPELLANT
SAN JUAN CITIZENS ALLIANCE**

I, Mark Pearson, a resident of La Plata County, Colorado, do hereby declare by knowledge and belief:

1. I currently reside at 560 Clearview Road, Durango, Colorado 81301.
2. I own undeveloped property in San Juan County, Colorado.
3. I have been personally involved in public participation opportunities that influence and affect public lands and natural resources managed by the BLM's Gunnison Field Office as a member and as staff of the San Juan Citizens Alliance ("SJCA").
4. I became a SJCA member in 1993.
5. As part of my formal education, I earned a Bachelor of Science in Engineering Physics from University of Colorado in 1981; and a Master of Science from the College of Natural Resources at Colorado State University in 1993.
6. I have been employed by SJCA from 1999 – 2009, and from 2017 to present. My current role is Executive Director.
7. I am familiar with the SJCA's organizational mission. The San Juan Citizens Alliance, founded

in 1986, advocates for clean air, pure water, and healthy lands – the foundations of resilient communities, ecosystems and economies in the San Juan Basin.

8. SJCA staff, including myself, participate in public land management on behalf of the organization itself and on behalf of SJCA's members. Public comments, appeals, and objection opportunities are used to ensure government agencies use the procedures and apply the standards that Congress has adopted to implement federal environmental policies that provide important protections to public lands, wildlife, cultural resources, public recreation opportunities and the human environment. These formal opportunities are an important means by which the federal agencies are informed of SJCA's membership concerns.
9. SJCA is participating in this appeal on its own behalf, and on behalf of numerous SJCA members who also directly participated in the public comment opportunities.

**SJCA Members Use and Enjoy Public Lands Impacted by the Silverton Travel
Management Plan**

10. In carrying out my job duties, I talk with numerous SJCA members whose use and enjoyment of the public lands in San Juan County would be negatively impacted by a new motorized trail in Minnie Gulch. Some SJCA members, myself included, hike and camp in the undeveloped mountain valleys of San Juan County including Minnie Gulch, some enjoy the peaceful quiet nature of Minnie Gulch in its current non-motorized management setting, some enjoy viewing and photographing wildlife and wildflowers in Minnie Gulch, and some pursue primitive recreation opportunities such as hiking and horseback riding through Minnie Gulch and along the Continental Divide National Scenic Trail.
11. SJCA, staff, and its members regularly submit comments, informed by information in the NEPA analysis.

My Use and Enjoyment of the Public Lands in San Juan County

12. I initially visited public lands in San Juan County in the early 1980s. My interests were based on the opportunity to experience undeveloped mountain landscapes in a natural and quiet condition by hiking and backpacking on non-motorized trails. In 1981, I visited Minnie Gulch and nearby alpine valleys while researching opportunities for citizen wilderness proposals. I have hiked, camped, watched wildlife and enjoyed the cultural and archeological resources in areas of San Juan County, including lands in the Minnie Gulch and along the Continental Divide National Scenic Trail, on numerous occasions over the past 39 years. In 1992, I co-authored a hiking guidebook with Colorado photographer John Fielder to BLM lands in western Colorado.

Included in that guidebook were hiking descriptions to the Handies Peak Wilderness Study Area and Pole Creek Mountain roadless area, and specifically the Cuba Gulch Trail to the Continental Divide National Scenic Trail nearby the upper end of Minnie Gulch. Most recently, I backpacked to the Continental Divide National Scenic Trail at the top of Minnie Gulch over several days in August 2018, and enjoyed day hikes in Minnie Gulch and along the Continental Divide National Scenic Trail in October 2020. Attached to this Declaration are 2 photographs I took of the Minnie Gulch trail in October, 2020, which fairly and accurately depict the nearly pristine and undeveloped nature of the trail and its surrounding alpine vistas. A third attached photograph depicts the flower-filled valley in mid-summer, from an online hiking blog. *See Attachment A.* I recognize the photograph as Minnie Gulch, and it fairly and accurately depicts the area during the summertime. I appreciate Minnie Gulch's general remoteness, its quiet and solitude, the Ute cultural features, and its primitive recreation opportunities. I intend to continue my visits and enjoyment of public lands in San Juan County and Minnie Gulch specifically.

13. I previously owned a half-dozen patented mining claims along the Continental Divide National

Scenic Trail at the head of adjacent Maggie Gulch, approximately one mile south of the intersection of the Minnie Gulch Trail with the Continental Divide National Scenic Trail. I sold these patented mining claims to the United States in 2017 for incorporation into public lands managed under the jurisdiction of the adjacent Rio Grande National Forest and the BLM. The purpose of this transaction was to ensure the long-term protection of the undeveloped, non-motorized character of the Continental Divide National Scenic Trail.

14. SJCA's mission is to advocate for healthy lands and ecosystems, and a critical aspect of that is the ability to participate in environmental reviews that engage the public in a meaningful manner. SJCA has extensively participated in BLM's Silverton Travel Management Plan review process, but if BLM commits critical ecological and primitive recreation resource areas to motorized recreation without adequate environmental analysis, our ability to offer informed comment and critique is short-circuited.

BLM's Approval of a New Motorized Trail Will Impact Use and Enjoyment

15. I have visited Minnie Gulch in San Juan County on multiple occasions. Construction of a new motorized trail in the vicinity of the existing trail will introduce new sources of noise, pollution, wildlife disturbance, and modification of the cultural landscape in the alpine valley. I am concerned the resulting impact to an otherwise natural alpine landscape would be extraordinary and incompatible with existing non-motorized primitive recreation and with the character of the historic Ute cultural landscape. I have experienced the noise, pollution and disruption from motorized recreation in similar landscapes elsewhere in the Silverton Travel Management Plan area in San Juan County. I am concerned that similar impacts may befall Minnie Gulch without adequate environmental analysis or public involvement. If such activities occur, my use of this area will be diminished and the values that originally drew me to the area 39 years ago, including

the wildlife, quiet, unmodified scenery, and remote non-motorized character of the landscape, will be permanently foregone, and I would use the Minnie Gulch trail less often or not at all.

BLM's Failure to Provide a Full Analysis Harmed SJCA's Ability to Protect its Interests and Minimize Impacts to the Environment

16. The impact of uninformed decisions harms the interests of SJCA and its members' use and enjoyment of the public lands and Minnie Gulch.
17. SJCA was denied the benefit of examination of site-specific impacts from construction of a new motorized trail in an undisclosed location somewhere in Minnie Gulch.
18. SJCA was denied the benefit of analysis of impacts to the Continental Divide National Scenic Trail from construction of an adjacent new motorized trail.
19. SJCA was denied the benefit of analysis of impacts to the historic Ute cultural landscape from construction of a new motorized trail.
20. Whenever a project proposal involves federal control or involvement, I rely on interdisciplinary analysis in NEPA documents to inform myself, SJCA, elected officials and local governments of the impacts. Although a federal analysis may remain subject to debate, it provides a reliable basis for an informed public to engage our local, state, and federal decisionmakers.
21. The SJCA interests, and those of our members, myself included, would be protected by an order granting our request to invalidate and set aside the Silverton Travel Management Plan.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on this 14th day of December, 2020 in Durango, Colorado.

s/ Mark Pearson
Mark Pearson

ATTACHMENT A



Minnie Gulch Trail, Oct. 20, 2020.



Minnie Gulch viewed from Continental Divide National Scenic Trail, Oct. 20, 2020.



Minnie Gulch in summer (used with permission).
(<https://debravanwinegarden.blogspot.com/2014/07/half-peak-13841-hourglass-summit.html>)



SOUTHERN UTE INDIAN TRIBE

October 18, 2022

Jon F. Kaminsky
Field Manager
Department of Interior
Bureau of Land Management
Gunnison Field Office
210 West Spencer Ave., Suite A
Gunnison, CO 81230

Re: 8160 (I.LCOS06000) Minnie Gulch Single-Track Motorized Trail Mitigation (Part of the Silverton Travel Management Plan)

Dear Mr. Kaminsky

I am writing in response to your September 22, 2022 letter, received by the Southern Ute Indian Tribe ("Tribe") on September 28, 2022, requesting the Tribe's comments on the proposed mitigation for the planned change in authorized use from single-track mechanized to single-track motorized on the Minnie Gulch Trail, a component of the Silverton Travel Management Plan. On February 18, 2020, we wrote then Acting Field Manager Suzanne Copping expressing our strong objection to motorized vehicles in Minnie Gulch. This letter is to reiterate those objections.

There has never been consultation with the Tribe on this issue consistent with federal policy. On January 26, 2021, President Biden issued a memorandum to the heads of all executive departments and agencies entitled *Tribal Consultation and Strengthening Nation-to-Nation Relationships* ("Memorandum"). In pertinent part, that Memorandum provides as follows:

American Indian and Alaska Native Tribal Nations are sovereign governments recognized under the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. It is a priority of my Administration to make respect for Tribal sovereignty and self-governance, commitment to fulfilling Federal trust and treaty responsibilities to Tribal Nations, and regular, meaningful, and robust consultation with Tribal Nations cornerstones of Federal Indian policy. The United States has made solemn promises to Tribal Nations for more than two centuries. Honoring those commitments is particularly vital now, as our

Nation faces crises related to health, the economy, racial justice, and climate change — all of which disproportionately harm Native Americans. History demonstrates that we best serve Native American people when Tribal governments are empowered to lead their communities, and when Federal officials speak with and listen to Tribal leaders in formulating Federal policy that affects Tribal Nations.

In response to the President's Memorandum the Bureau of Land Management ("BLM") issued the following statement.

At the Bureau of Land Management, which is a part of the Interior Department, honoring our nation-to-nation relationship with Tribal Nations, strengthening Tribal sovereignty and self-governance, and upholding the trust and treaty responsibilities are paramount to fulfilling our mission. This means going beyond just checking the box to say we talked to Tribal Nations when we take actions that may affect Native American communities.

The meaningful consultation referenced in the President's Memorandum and the BLM policy statement has never occurred with respect to the utilization of motorized vehicles in Minnie Gulch. Moreover, the short 30 day window the BLM has provided to comment on a proposed mitigation plan about which the Tribe has been provided no information is highly insufficient.

Your letter references an alleged government-to-government consultation that took place in July of 2020 with the Tribe. However, at the time of that purported consultation, the decision to build the motorized trail in Minnie Gulch had already been made. That decision was the result of impermissible coordination between BLM staff and motorized recreation advocates.

The Trails Preservation Alliance ("TPA") and San Juan Trail Riders ("SJTR") ("OHV user groups") developed the idea to create a motorized trail through Minnie Gulch, spent years planning the project, prepared a construction plan with a private trail construction contractor, and actively lobbied the BLM to support their proposal. In August 2019 - over a year before the final Environmental Assessment ("EA") and six months before the preliminary EA - these groups surveyed the potential trail with a private contractor, who stated that he was "primarily recommending two (2) adjustments of the existing trail ... once the trail is re-designated for multiple use."¹

After committing extensive resources to the project, the OHV user groups were determined to add this motorized trail to their map. In their view, concerns from Tribes about the legally insufficient consultation on impact to cultural resources were "last minute tactics that are now being initiate[d] by certain anti access groups."² They argued that BLM should consider "[t]he work and money all ready [*sic*] spent in support of the project, and the re hab [*sic*] cost of

¹ Letter from Casey McLellan, McStone Aggregates, to Don Riggle, Trails Preservation Alliance, and Allen Christy, San Juan Trail Riders (Aug. 26, 2019).

² E-mail from Don Riggle, Trails Preservation Alliance, to Suzanne Copping, BLM (Feb. 19, 2020, 06:26 PM).

repairing the Minnie trail” and ignore the concerns from local tribes.³ By the time the final EA was under consideration, TPA members had been working on the Minnie Gulch project for 2 years and questioned why progress was not to their satisfaction.⁴

The extensive communications between BLM and the OHV user groups prior to the release of the EA show a coordinated effort to develop a plan, design a route, and secure access – everything short of committing to the decision in writing. BLM staff relied on the plan generated by the contractor working with the OHV user groups as the starting point for their proposed routing of the Minnie Gulch trail.⁵ BLM staff planned a meeting with representatives of the OHV user groups that they explicitly wanted to be a “small group” because it was “critical that the discussions don’t get out.”⁶ After that meeting, TPA staff informed the BLM that they had secured approval from both landowners that were necessary to allow access.⁷

After BLM re-opened public comment on the preliminary EA, BLM staff personally explained how OHV user groups could help BLM.⁸ The next day, a BLM staff member wrote that “I have been in touch with Don from TPA on this issue almost daily. I am going down to Durango to further discuss it with the San Juan Trail Riders. STJR [sic] and TPA are upset but still actively engaged....”⁹

The actions of BLM and the OHV user groups after the EA decision was finalized show collaboration with the goal of creating a motorized trail in Minnie Gulch, where the ultimate decision was a mere formality. Shortly after finalizing the decision, BLM directly requested help from the OHV user groups: “We’ve got a lot of things going on, and with Jim being gone we are down two rec planners. If you guys could GPS and mark some proposed routes that would help a lot.”¹⁰ Less than two weeks later the OHV user groups responded with a report: “The work you requested for a proposed routing of a new Minnie Gulch multi-use trail was completed last Thursday October 8th by our project team. The proposed trail building contractor Mr. Casey McClelland participated as a part of the team. There were 28 working man hours, 8 travel hours, 200 pin flags, 40 stakes and associated flagging utilized to complete the task.”¹¹ Within days of

³ E-mail from Don Riggle, Trails Preservation Alliance, to Suzanne Copping, BLM (Feb. 19, 2020, 06:26 PM), AR 3.06-4.

⁴ E-mail from Don Riggle, Trails Preservation Alliance, to Elijah Waters, Gunnison Field Manager (Aug. 20, 2020, 08:47 AM).

⁵ E-mail from Andrew Welsh, BLM, to Rachel Miller, BLM (Sept. 5, 2019, 09:18 AM)..

⁶ E-mail from Elijah Waters, Gunnison Field Office, to Andrew Welsh and Stuart Schneider, BLM (July 17, 2019, 08:05 AM).

⁷ E-mail from Andrew Welsh, BLM, to Elijah Waters, Gunnison Field Office (July 29, 2019, 12:41 PM).

⁸ E-mail from Andrew Welsh, BLM, to Allen Christy, San Juan Trail Riders (Dec. 4, 2019, 03:30 PM).

⁹ Internal E-mail from Andrew Welsh, BLM (Dec. 5, 2019, 12:55 PM), AR 4.01.10-27.

¹⁰ E-mail from Elijah Waters, Gunnison Field Manager, to Don Riggle, Trail Preservation Alliance (Sept. 29, 2020, 05:15 PM)

¹¹ E-mail from Allen Christy, San Juan Trail Riders, to Kristi Murphy, BLM Outdoor Recreation Planner, and Jim Lovelace, BLM Outdoor Recreation Planner (Oct. 11, 2020 06:28 PM)

the decision, the OHV user groups, along with their contractor, were engaged in field work at the request of BLM staff.

Unfortunately, The circumstances establish that the BLM began coordinating with the OHV user groups and arranged for them to survey proposed motorized vehicle routes in culturally sensitive areas long before ever contacting the Tribe. And by the time any efforts were made to reach out to the Tribe, the decision to approve motorized vehicles in Minnie Gulch had, in effect, been made. This was true despite the fact that the EA provided “[t]he cumulative effects of the change in authorized use from single track mechanized to single track motorized on 2TE (Minnie Gulch Trail) would cause irreversible adverse effects to the [non-renewable] cultural landscape” which “cannot be mitigated.”¹²

By no means is this the “meaningful” or “robust” consultation required by the President’s Memorandum or BLM policy. To the contrary, the BLM was simply “checking the box” by reaching out to the Tribe. This is the type of consultation the Tribe experienced at this time with BLM – where it was evident that the BLM intended to proceed with a project regardless of the information obtained during the consultation, and treated tribal interests with disrespect.

Equally important, the decision to approve motorized vehicles within Minnie Gulch is in derogation of the Treaty obligations the United States made to the Ute Tribes over a century ago. Had the BLM engaged in meaningful consultation, it would have acknowledged the solemn Treaty obligations it owes the Tribe. Minnie Gulch is within the Brunot Treaty Area which Treaty was ratified by Congress in 1874. This Treaty protects the off-reservation hunting rights of the members of the Tribe within the Brunot area. The hunting of elk is an important cultural practice of Tribal members. While you have indicated that motorized vehicles will not impact *access* by Tribal members to the Brunot area, it does not take in to account the *impact* on wildlife for those members seeking to exercise this culturally protected right.

The motorized trail will harm an important elk summer and calving range in the proposed project area. The elk herd in this area (E31) is struggling with very low calf recruitment. Additionally, neighboring data analysis units (“DAU’s”) for E30, E34 and E25 have shown similar decreases in calf recruitment and elk herds. This calf recruitment problem has triggered targeted research projects by the Colorado Parks and Wildlife (“CPW”) as well as extreme reductions in the availability of cow elk hunting permits available to preserve reproductive cows and their future calves. Recently, CPW has taken the unprecedented step of taking E31 and E30 GMUs out of Over The Counter (“OTC”) status for archery elk hunters. This was done because of agency and public concerns about the current and future status of the elk herd.

The Tribe shares cooperative management authority for wildlife in the Brunot Treaty Area with the state of Colorado.¹³ Concomitant to CPW survey efforts, annual tribal aerial big game

¹² *Id.*, at 62.

¹³ Memorandum of Understanding Between the Southern Ute Indian Tribe and State of Colorado Concerning Wildlife Management and Enforcement in the Brunot Area

surveys have recorded the decline of calf elk recruitment on Reservation winter ranges for the past decade. Radio collar studies, facilitated by the Tribe, show that many of the elk that winter on tribal lands east of the Pine River are migratory and summer in the high country of the Upper Rio Grande, spilling over north and west of the Continental Divide into the proposed project area, particularly Minnie Gulch. As such, the Tribe has made a connection between a struggling portion of the elk herd and the proposed project area. The long-term negative impacts to elk, and other wildlife, which will be felt by both consumptive and non-consumptive users alike, far outweighs its recreation benefit to a few in the motorized trail riding community. The planned access by motorized vehicles will be one more adverse impact on the struggling elk herds which, in turn, will impact the ability of Tribal members to exercise their Treaty protected hunting rights in the Brunot area. The mitigation plan identified by BLM has identified no way to protect and preserve this cultural activity of Southern Ute Tribal members that is protected by federal law.

In addition to the impact on the elk hunting, which is integral to Southern Ute culture, the motorized vehicle plan will irreparably impact areas of cultural significance to the Tribe. The federal government has a unique trust obligation to protect the Tribe's cultural sites. The BLM previously met with Alden Naranjo, an elder of the Southern Ute Indian Tribe and then an employee of the Tribe's Cultural Preservation Department, who has since passed on. Mr. Naranjo described to you the impact that motorized vehicles will have on areas of cultural significance within the Brunot Area, particularly at Minnie Gulch. As explained to you by Mr. Naranjo, the proposed development in Minnie Gulch will impact ancestral sites and historic Ute trails, leading to disruption of the Tribe's cultural connection to the area. This is confirmed in BLM's EA, which provides:

The construction of and motorized use of a new route would compromise the integrity of the cultural landscape and setting which would adversely affect the prehistoric linear resource located in the Minnie Gulch valley. The Minnie Gulch trail was verified as a Ute Trail during consultation efforts and concerns brought forth included degradation to the cultural landscape caused by the creation of a new trail, degradation to the soundscape caused by motorized use, and increase in users in the Minnie Gulch valley.¹⁴

Therefore, as the BLM explained in the EA, "[t]he cumulative effects of the change in authorized use from single track mechanized to single track motorized on 2TE (Minnie Gulch Trail) would cause irreversible adverse effects to the [non-renewable] cultural landscape" which "cannot be mitigated."¹⁵

We find it difficult to understand how, in response to the introduction of motorized vehicles into Minnie Gulch, any mitigation plan you have now proposed could possibly correct what your own EA acknowledged would cause "irreversible adverse effects" which "cannot be mitigated." For

¹⁴ EA at 61

¹⁵ *Id.*, at 62.

that reason, any further plans on placing motorized vehicles in Minnie Gulch must be placed on hold until there is full, adequate, and meaningful consultation with the Tribe, which should include a site visit with members of our Cultural Preservation Department. To date there has been absolutely no transparency or consultation with the Tribe about the location of this new trail. The ethnographic study by Anthropological Research, LLC has not been completed and the Tribe has not been consulted in its preparation. The Tribe was not consulted in the survey of cultural resources by ERO Resources. While you indicated that the new motorized trail alignment will *avoid* the Ute Trail and lithic scatter, you have provided the Tribe no information on how it will ensure there will be no *impact* on these important cultural resources. From the limited drawings that have been provided, the planned new motorized trail is only a few hundred feet above the Ute Trail on a steep undisturbed hillside. Rock and debris from a new Trail will erode down onto the Ute Trail, and the noise of motorized vehicles will be clearly heard by anyone on the Ute Trail. Increased traffic will inevitably impact cultural resources in the area.

In light of these important considerations, we request that Minnie Gulch remain a non-motorized trail. We further request the BLM engage the Tribe in actual and meaningful consultation, and to respect the Tribe's Treaty protected rights and cultural resources.

Sincerely,

A handwritten signature in dark ink, appearing to read "Melvin J. Baker". The signature is fluid and cursive, with the first name "Melvin" being more prominent.

Melvin J. Baker
Chairman
Southern Ute Indian Tribe

cc. Danielle Schneider dschneider@blm.gov
John Whitney John_Whitney@bennet.senate.gov

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Forest Service reverses course on Jackson Mountain trails north of Pagosa Springs

Ranger district removes proposed construction of 40 miles of trail from project

By Reuben Schafir Herald Staff Writer

Monday, Apr 24, 2023 5:34 PM



The Pagosa Ranger District has decided to remove 40 miles of trail and a gravel pit from the proposed developments included in the Jackson Mountain Landscape Project. (Courtesy of the U.S. Forest Service)



The Pagosa Ranger District of the San Juan National Forest announced last week that it will no longer pursue development of a trail system or gravel pit initially included in the proposed [Jackson Mountain Landscape Project](#).

When the scoping period on the project began earlier this year, the district had proposed building 40 miles of mountain bike and multiuse trail in the 11,703-acre area. Unsanctioned trails have existed in the area for over two decades.

The gravel pit would have provided material for noncommercial uses on county and Forest Service roads.

But input submitted by the public contained some serious concerns over the impact the proposed trails could have on the imperiled elk population, which ultimately led to the decision not to pursue that element of the project.

The approval process for the fuels reduction part of the project, which includes up to 2,000 acres of thinning and vegetation treatment, will continue. The [site is located](#) north of Pagosa Springs between U.S. Highway 160 and the Archuleta-Mineral county line.

Pagosa District Ranger Josh Peck said that with respect to the trails and the gravel pit, the feedback from the public contained a mixture of support and objection to the proposals.

“What was important in some of those comments presented by several individuals and also nonprofit group entities was the actual substance they raised related to the wildlife impacts,” Peck said.

Over half the project area is classified by Colorado Parks and Wildlife as a winter concentration area for elk, and a smaller portion is classified as “severe winter range.”

Although the trails would be closed in the winter, many wildlife advocates still raised concerns over the impact they could have on elk. CPW expressed concern over the impact on ungulates as a potential issue as well.

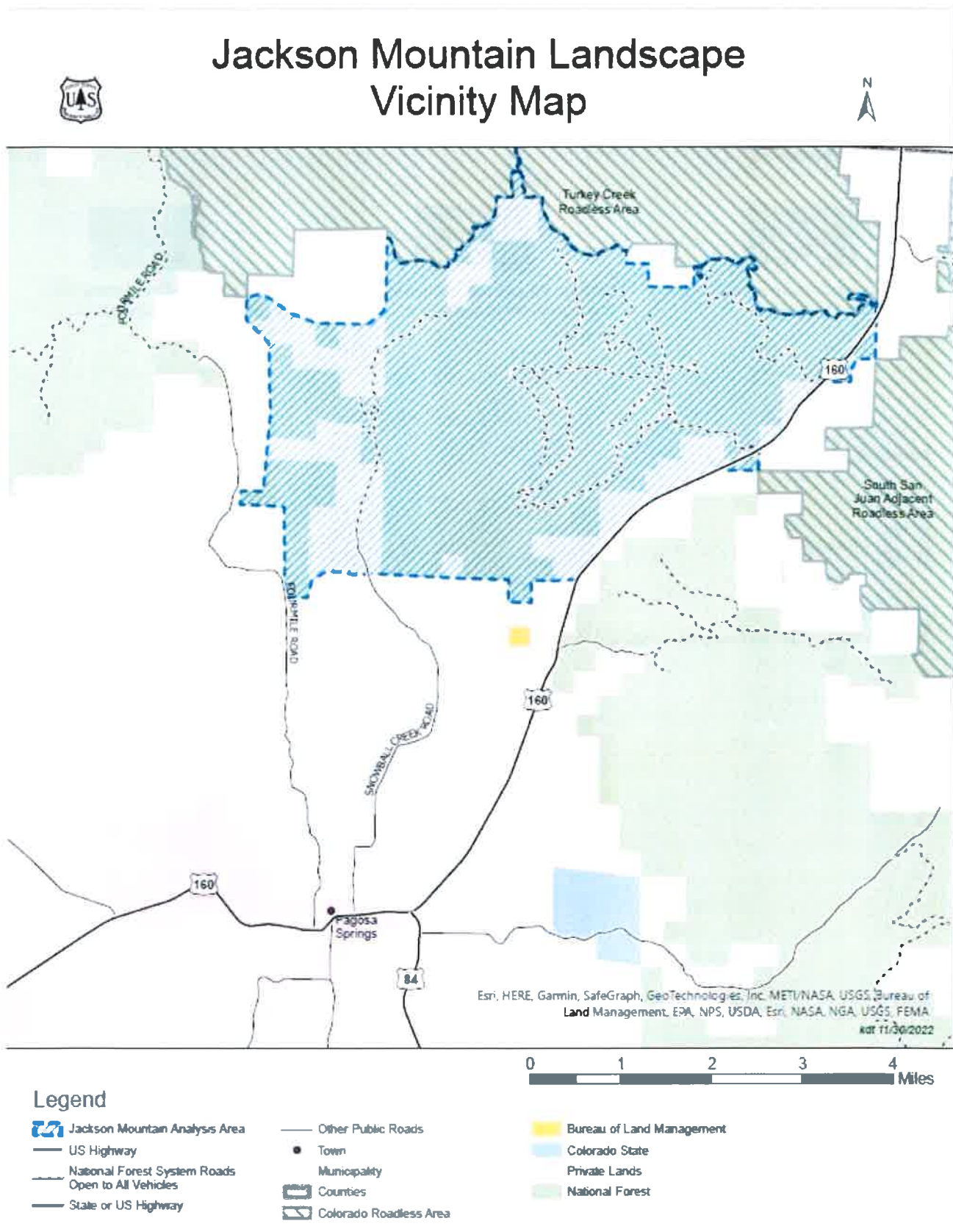
Many of the comments objecting to the trails also said the project could set an unwanted precedent regarding illegal trails.

“This trail proposal, if approved, sets precedent that the USFS not only allows illegal trail construction but encourages and accepts it as a legitimate means of bypassing proper planning procedure,” warned Alex Krebs, the assistant regional director of Backcountry Hunters and Anglers in a letter to Peck.

Peck said that was not the objective.

“Often we see those trails as an indicator that we are not providing an experience that people are seeking,” Peck said. “Oftentimes we find that those experiences are something we need to look at, and oftentimes we find that where people are looking for those particular experiences can be a good location to consider.”

Developing Urban Singletrack Trails & Teams, a Pagosa Springs-based mountain bike group, first approached the Forest Service about the trail system in 2017. Over the next several years, the organization partnered with and received support from a variety of nonprofits and agencies, including Archuleta County, to develop a plan.



Fire mitigation work will proceed in the Jackson Mountain area, despite the Pagosa District Ranger's decision to exclude recreation developments and a gravel pit from further consideration. (Courtesy of the U.S. Forest Service)



Developing Urban Singletrack Trails & Teams did not immediately respond to a request for comment Monday.

In an unusual statement, Peck **wrote a letter** published Thursday in *The Pagosa Springs SUN* explaining the decision to drop the recreation developments and gravel pit from the proposal.

“There were a lot of folks that we'd spent a lot of time working with on this particular proposal, and it is very important to the community,” Peck said. “I felt it was very important to explain my rationale thoroughly, why I didn't feel like this was the appropriate location.”

rschafir@durangoherald.com

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Jon Krueger

So the guys who like to shoot elk are saying don't bother the elk. thats rich

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MEMORANDUM

April 26, 2023

TO: San Juan County Commissioners

FR: William A. Tookey

RE: Amendment to 10-103.4 Floodplain Hazard Areas of the Zoning and Land Use Regulations

The Federal Emergency Management Agency (FEMA) has completed a new Flood Insurance Study for San Juan County. The completed study includes new Flood Insurance Rate Maps for the National Flood Insurance Program. The completed study with maps becomes effective as of May 9, 2023. The current FEMA study and maps are dated March 1978.

In order to be in compliance with FEMA San Juan County needs to amend Section 10-103.4 of the Zoning and Land Use Regulations to reflect the new Flood Insurance Study. Failure to be in compliance with FEMA could prevent property owners from purchasing flood insurance.

A Public Hearing has been scheduled to receive comment concerning the amendment to Section 10-103.4 of the Zoning and Land Use Regulations. The San Juan Regional Planning Commission has reviewed the amendment and it is their recommendation to the Commissioners that the Commissioners adopt Resolution 2023-02 to amend Section 10-103.4 as submitted.

A copy of the proposed Resolution 2023-02 and the amended Section 10-103.4 are included along with a copy of the Flood Insurance Study and Maps.

**San Juan Regional
Planning Commission**
SAN JUAN COUNTY TOWN OF SILVERTON
Silverton, Colorado 81433
P.O. Box 223

April 18, 2023

Board of County Commissioners
San Juan County
Silverton, CO 81433

Members of the Commission:

RE: Resolution 2023-02 to amend 10-103.4
Floodplain Hazard Areas of the Zoning and
Land Use Regulations to Adopt the Flood
Insurance Study for San Juan County

At a regular meeting of the San Juan Regional Planning Commission on April 19, 2023, members of that Commission discussed the proposed Resolution 2023-02

After discussion the members made a motion that the Planning Commission recommends that the San Juan County Commissioners approve Resolution 2023-02 to amend the Zoning and Land Use Regulations section 10-103.4 Floodplain Hazard Areas to adopt the Federal Emergency Management Agency (FEMA) Flood Insurance Study and Flood Insurance Rate Maps for San Juan County, Colorado and Incorporated Areas dated May 9, 2023, as presented.

Thank you for considering this recommendation.

Sincerely,
Jim Weller
Chairman and the Planning Commission Members

RESOLUTION 2023-02

A RESOLUTION AMENDING THE ZONING AND LAND USE REGULATION CONCERNING FLOODPLAIN MAPS AND FLOODPLAIN REGULATIONS

WHEREAS, Federal Emergency Management Agency (FEMA) has produced a new Flood Insurance Study (FIS) and Floodplain Insurance Rate Map (FIRM) for San Juan County; and

WHEREAS, San Juan County has been mandated by FEMA and Colorado Water Conservation Board (CWCB), together with federal and state law, to adopt the new maps or risk being suspended from the National Flood Insurance Program (NFIP); and

WHEREAS, loss of the NFIP participation will result in harm to citizens of San Juan County who need and obtain flood insurance to protect their property through the NFIP; and

WHEREAS, to avoid loss of the NFIP participation, San Juan County will follow the mandate of FEM and CWCB and adopt the new floodplain maps; and

WHEREAS, Section 13-111 of the San Juan County Zoning and Land Use Regulation allows for the amendment of that regulation by the Board of County Commissioners; and

WHEREAS, amendments to the San Juan County Zoning and Land Use Regulation have been reviewed by the San Juan Regional Planning Commission during their regular meeting of, April 18, 2023; and

WHEREAS, a public hearing has been conducted by the Board of County Commissioners on the proposed amendments, having been properly noticed in accordance with Section 13-111 of the San Juan County Zoning and Land Use Regulation; and

WHEREAS, the Board of Commissioners held a public hearing on April 26, 2023 to receive public comment and determined that the adoption of these amendments promotes the health, safety and welfare of its citizens and the general public.

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of San Juan County, that Section 10-103 FLOODPLAIN AND HAZARD AREAS .4 of the San Juan County Zoning and Land Use Regulation shall be amended as attached and incorporated within this resolution, are hereby adopted; and

BE IT FURTHER RESOLVED that upon adoption of this resolution, the amendments to the San Juan County Zoning and Land Use Regulation shall be filed in the office of the County Clerk & Recorder and indexed in the manner prescribed by law.

READ, PASSED AND ADOPTED this 26th day of April, 2023 by the Board of Commissioners of San Juan County, Colorado.

Attest:

Austin Lashley, Chair

Ladonna Jaramillo

Clerk and Recorder

Pete Maisel

Scott Fetchenhier

CHAPTER TEN

FLOODPLAIN IMPACT ANALYSIS

10- 101 PURPOSE

The purpose of this chapter shall be to minimize significant hazards to public health and safety, and to property in an identified floodplain area; to promote the safe use of floodplain areas; to reduce the impact of floodplain hazards on life and property; to protect the public from the burden of excessive financial expenditure connected with the impacts of floodplain hazards; and to provide that uses made of floodplains do not constitute significant potential hazards to public health and safety, or to property, and do not serve to aggravate the hazard potential of the area.

10- 102 APPLICABILITY

Any party obtaining an Application for Improvement Permit shall be required to obtain clearance relative to potential adverse impact from, or to, floodplain hazards before an Improvement Permit may be issued.

10- 103 FLOODPLAIN HAZARD AREAS

Floodplain hazard areas, the characteristics common to them, and recommended mitigating factors or conditions, are contained in a series of documents as follows:

- .1 The potential floodplain hazard areas depicted on a map entitled "Potential Flood Hazard Areas" drafted by San Juan County for submission to the Colorado Water Conservation Board on December 26, 1974, and approved for identification of flood hazard potential by the County Commissioners by Resolution 4-75 on April 9, 1975, a single map of San Juan County, a copy of which is filed in the office of the County Clerk & Recorder, Book 212, Page 32 and in the office of the Land Use Administrator. The County Commissioners declare that the following materials are approved for use by the officials of this jurisdiction in the application, interpretation and enforcement of this chapter.
- .2 The physiographic floodplain areas depicted on the series of maps entitled "Surficial Deposits and Geologic Hazards Map, San Juan County," compiled by William A. Gallant of Charles S. Robinson and Associates, Inc. of Golden, Colorado, for San Juan County in 1975-76, involving and including all, or part, of eight USGS 1:24,000 topographic quadrangle maps within San Juan County. These maps were approved for identification of the physiographic floodplain by the County Commissioners by Resolution 8-76 on March 3, 1976, and are filed in the office of the County Clerk & Recorder, Book 212, Pages 13-19, and in the office of the Land Use Administrator.
- .3 A document entitled, "Geologic Hazard and Land Use Study, San Juan County, Colorado," prepared by Charles S. Robinson and Associates, Inc. of Golden, Colorado, for San Juan County in 1976, and approved as part of the

identification of natural hazards by the County Commissioners by Resolution 8-76 on March 3, 1976, copies of which are filed with the Land Use Administrator.

- .4 Areas of special flood hazard are identified by the Flood Insurance Study on file in the office of the Land Use Administrator. This report is entitled "Flood Insurance Study, San Juan County, Colorado and Incorporated Areas ~~Town of Silverton and Unincorporated Areas,~~" dated May 9, 2023 ~~March 1978~~, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps. These maps and study are incorporated herein by reference and made part of this chapter.

10- 104 PROCEDURES

- .1 Designation of the Floodplain Administrator. The Land Use Administrator is hereby appointed as Floodplain Administrator to administer, implement and enforce the provisions of this chapter and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.
- .2 Duties and Responsibilities of the Floodplain Administrator. Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
 - (a) Maintain and hold open for public inspection all records pertaining to the provisions of this chapter, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by Section 10-106.
 - (b) Review, approve or deny all applications for Floodplain Development Permits required by adoption of this ordinance.
 - (c) Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
 - (d) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
 - (e) Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.
 - (f) Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

- (g) When Base Flood Elevation data has not been provided in accordance with Section 10- 103, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data and Floodway data available from a Federal, State, or other source, in order to administer the provisions of this chapter.
 - (h) For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the community.
 - (i) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.
 - (j) Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
 - (k) Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- 3 Applicants for an Improvement Permit are required to obtain clearance from the Land Use Administrator regarding floodplain hazards prior to the issuance of an Improvement Permit. The procedures to be used in the granting or denial of this clearance shall be as follows:
- (a) Upon receipt of the information required by Section 3 -102, the Land Use Administrator shall determine the floodplain hazard relative to the property in question by consultation of the maps and documents specified in Section 10 –103. The Land Use Administrator may, at their discretion, also conduct an on-site inspection of the property.
 - (b) At the completion of the consultation, the Land Use Administrator may do one of the following:
 - (i) Find that the property in question is not adversely affected by any floodplain hazard, and that special impact analysis for flood plain hazards does not apply.
 - (ii) Find that floodplain hazards may affect the property or improvement in

question, but that plans of the applicant include sufficient mitigating techniques or elements to allow the use or improvement to proceed.

- (1) In such a case, clearance shall be subject to conditions specified, in writing, to the applicant by the Land Use Administrator.
 - (2) In such a case, clearance can be given by the Land Use Administrator only after approval has been given by the Building Inspector, based upon the provisions of the Building Code as amended, to the plans submitted in accordance with Section 3 – 102 of this Code.
- (iii) Find that impact cannot be sufficiently determined without further study of the property, or the floodplain hazard involved, by the Planning Commission, with final decision to be made by the County Commissioners.
- (1) In such a case, the Land Use Administrator shall require the applicant to utilize the Review and Appeal Process detailed in Chapter of this Code, as specifically authorized in Section 4-102.1 (b).
 - (2) In such a case, the Land Use Administrator shall require the applicant to meet additional submission requirements as listed in Section 10- 105 below.
- (iv) Deny floodplain hazard impact clearance based upon the provisions of this chapter.

10- 105 ADDITIONAL SUBMISSION REQUIREMENTS

Applicants for an Improvement Permit shall be required to submit additional materials beyond those specified in Section 3 – 102 of this Code under certain circumstances.

- .1 Additional materials shall be submitted to the Board of County Commissioners by applicants who:
 - (a) Are required by the Land Use Administrator to utilize the Review and Appeal Process under Section 10 – 104.2 (c).
 - (b) Seek a variance to any provision of this chapter provided it complies with the following general FEMA standards:
 - (i) An applicant has good and sufficient cause for requesting a variance;
 - (ii) An applicant will suffer exceptional hardship should a variance be denied;
 - (iii) A variance will not cause increased flood heights, additional threats to

public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;

- (iv) A variance is the minimum necessary, considering the flood hazard, to afford relief; and
 - (v) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (c) Wish to appeal an administrative decision made under the provisions of this chapter.
- .2 The additional materials for any of the cases above shall consist of at least four (4) copies of:
- (a) A vicinity map, showing the location of the property in question, portrayed on the appropriate USGS 1:24,000 topographic quadrangle map.
 - (b) A topographic map, or maps, at a scale no less detailed than 1"=500' and with contour intervals of 2' showing the location, nature and density of the proposed improvement or land use change, as well as all streams, rivers, channels and drainage features.
 - (c) Any available flood elevation studies, water surface elevations or base flood elevations.
 - (d) Drawings of the surface view showing elevations or contours of the ground, pertinent structures, fill or storage elevations, size, location and arrangement of proposed structures, location and elevation of existing and proposed roads, driveways, water supply systems and sanitary facilities.
 - (e) Data on the elevation, in relation to mean sea level, of the lowest floor, including basement, of any and all structures in question and, where the lowest floor is below grade on two or more sides, the elevation of the floor immediately above.
 - (f) A report showing specifications for building materials, filling, dredging, grading, storage of materials, channel changes, water systems and sanitary facilities.
 - (g) Description of any construction activity which would affect the hydraulic capacity of the floodway.
 - (h) Description of proposed floodproofing measures.

- .3 Unless otherwise specified, the following map standards shall be adhered to in this chapter.
 - (a) Maps will be in compliance with national map accuracy standards as promulgated by the U. S. Bureau of Budget.
 - (b) All maps shall show a true north arrow and shall show monumented corners of the property in question.
 - (c) One of the four copies of each map shall be in reproducible form, ie: mylar, sepia or clear film positive.
- .4 All engineering work prepared under this chapter shall be prepared by, or under the direction of, and signed by a registered Colorado professional engineer.
- .5 The County Commissioners may waive any part, but not all, of the submission requirements imposed by this chapter upon the written petition of the applicant that full compliance with the submission requirements would be an unreasonable burden for the applicant and that the proposed improvement will have an insubstantial impact on the surrounding area.

10- 106 CRITERIA FOR CLEARANCE

An applicant for an Improvement Permit shall be given floodplain hazard clearance only if all of the following are met:

- .1 The requirements of Chapter 10 have been complied with.
- .2 Provision has been made for the long-term protection of the public from floodplain hazards.
- .3 The proposed improvement will not impose a financial burden upon residents of the areas or upon the County.
- .4 The proposed improvement will not intensify the hazard for flooding.
- .5 The improvement is engineered and will be constructed in a manner that will minimize hazards to public health and safety or to property due to flood.
- .6 No development on, or over, any portion of a floodway shall be permitted which alone or cumulatively with other such activities would cause or result in any of the following:
 - (a) The storage or processing of materials that in time of flooding are buoyant, flammable, explosive or otherwise potentially injurious to human, animal or plant life.

- (b) The disposal of garbage or solid waste in the floodplain area.
- (c) The permanent or temporary occupation of fixed or mobile structures for residential purposes.
- (d) Substantial solid debris being carried downstream.
- (e) Any obstruction which would adversely affect the efficiency of, or restrict the flow or capacity of, a floodplain so as to cause foreseeable damage to others.

.7 Improvements within a potential floodplain area not within a floodway shall be designed so as to minimize adverse effects of the hazard through the following:

- (a) Anchoring of structures to prevent flotation, collapse or lateral movement.
- (b) Design to locate public utilities so as to minimize damage to utility lines and facilities.
- (c) Insurance of adequate drainage to minimize flood hazard potential.
- (d) Guarantee that water supply and sanitary sewage systems are not impaired or contaminated during, or subsequent to, flooding.
- (e) Construction of the lowest floors of structures (including basements), electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities (including ductwork) at an elevation at least one foot above the probable, or known, intermediate regional flood level.
- (f) Floodproofing of structures (including basements), electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities (including ductwork) located below the level of the probable, or known, intermediate regional flood, or subject to floodwater with significant velocity, to a level at least one foot above the probable, or known, intermediate regional flood level.
- (g) Elimination of mobile and/or manufactured homes of any type.

.8 A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

(a) Classification of Critical Facilities

It is the responsibility of the County of San Juan to identify and confirm that

specific structures in their community meet the following criteria:

Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.

- (i) Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities and transportation lifelines.

These facilities consist of:

- (1) Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
- (2) Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors' offices and non-urgent care medical structures that do not provide these functions);
- (3) Designated emergency shelters;
- (4) Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio and other emergency warning systems, but excluding towers, poles, lines, cables and conduits);
- (5) Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipe-lines, transmission lines, distribution lines and service lines); and
- (6) Air Transportation lifelines (airports- municipal and larger), helicopter pads and structures serving emergency functions and associated infrastructure (aviation control towers, air traffic control centers and emergency equipment aircraft hangars).

Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems and hydroelectric power generating plants and related appurtenances.

Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the County of San Juan that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Article, and an operations plan is in effect that states how redundant systems will provide service to the

affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the County of San Juan on an as-needed basis upon request.

- (ii) Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.

These facilities may include:

- (1) Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
- (2) Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- (3) Refineries;
- (4) Hazardous waste storage and disposal sites; and
- (5) Above ground gasoline or propane storage or sales centers.

Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, and the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 C.F.R. § 302 (2010) and OSHA regulation "Occupational Safety and Health Standards," 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation this ordinance, but exclude later amendments to or editions of the regulations

Specific exemptions to this category include:

- (1) Finished consumer products within retail centers and households containing hazardous materials intended for household use and agricultural products intended for agricultural use.
- (2) Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having

land use authority) that a release of the subject hazardous material does not pose a major threat to the public.

- (3) Pharmaceutical sales, use, storage and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this chapter.

- (iii) At-risk population facilities include medical care, congregate care and schools.

These facilities consist of:

- (1) Elder care (nursing homes);
- (2) Congregate care serving 12 or more individuals (day care and assisted living); and
- (3) Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children).

- (iv) Facilities vital to restoring normal services including government operations.

These facilities consist of:

- (1) Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers); and
- (2) Essential structures for public colleges and universities (dormitories, offices and classrooms only).

These facilities may be exempted if it is demonstrated to the County of San Juan that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this ordinance, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the County of San Juan on an as-needed basis upon request.

(b) Protection for Critical Facilities

All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be

regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this ordinance, protection shall include one of the following:

- (i) Location outside the Special Flood Hazard Area; or
- (ii) Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the Base Flood Elevation.

(c) Ingress and Egress for New Critical Facilities

New Critical Facilities shall, when practicable as determined by the County of San Juan, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

.8 Standards for Subdivision Proposals

- (a) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
- (b) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of this ordinance.
- (c) Base Flood Elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to this ordinance.
- (d) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (e) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

.9 Properties Removed From the Floodplain by Fill

A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

- (a) Residential Construction

The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill.

(b) Nonresidential Construction

The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

- .10 Provision is made for disclosure, prior to sales, of all floodplain hazards and mitigation procedures undertaken, and for attaching a delineation and description of the floodplain hazard and mitigation measures to all deeds, titles, and recorded documents involving a transfer of ownership of the property, or any part of said property.
- .11 Open space uses are incorporated into the improvement plan to the greatest practicable extent, in addition to, rather than in place of, other mitigation procedures.

10- 107 LIMITATIONS OF MAPS

- .1 Maps and documents referred to in this chapter are not intended to serve as a forecast of all possible flood activity within San Juan County, and should not be relied upon as such by the public. Neither San Juan County, nor any of its agents, employees or appointed boards, can assume any responsibility for unforeseen effects of extraordinary snow melt, precipitation, changes in climate, alteration of floodways or other events upon the future behavior of floodwaters and they do not, by adoption of this regulation, purport to do so.
- .2 San Juan County shall not be liable for any damage or destruction caused by flooding, whether or not such damage could have been foreseen or otherwise prevented by San Juan County or its agents, employees, officers or boards. All persons constructing improvements in San Juan County must consult all information in the office of the Land Use Administrator prior to seeking approval for the construction of improvements. No person shall be entitled to seek, or rely upon, any opinion of any agent, employee, officer or board of San Juan County regarding the presence or absence of natural hazards which might affect property on which they propose to construct improvements.

PUBLIC HEARING

Notice is hereby given to the members of the general public that the San Juan Board of County Commissioners will hold a public hearing on Wednesday April 26, 2023 at 8:00 P.M. in the County Commissioner's Room to receive public comment concerning the amendment to 10-103.4 Floodplain Hazard Areas of the Zoning and Land Use Regulations.

The proposed changes are in response to the Federal Emergency Management Agency Flood Insurance Study and The National Flood Insurance Program Flood Insurance Rate Maps that will become effective as of May 9, 2023.

NOTICE is further given that all persons may appear in person or via Zoom Conferencing and present oral testimony at the public hearing. The login information is listed below. Written testimony may be submitted prior to the public hearing by mailing comments to San Juan County, PO Box 466, Silverton, CO 81433, or by email to sanjuancounty@frontier.net. Interested persons may visit or call the San Juan County Administrator at 970-387-5766 during regular business hours to discuss the proposed property transfer.

The San Juan Regional Planning Commission will also review the Federal Emergency Management Agency Flood Insurance Study and The National Flood Insurance Program Flood Insurance Rate Maps during their regular meeting of April 18, 2023, beginning at 7:00 P.M. in the County Commissioner's Room. The Planning Commission Meeting may be attended in person or via the Zoom Conferencing login listed below.

Austen Lashley, Chairman
San Juan Board of County Commissioners

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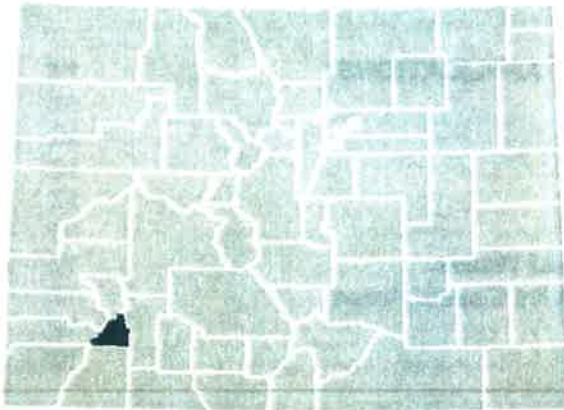
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FLOOD INSURANCE STUDY

FEDERAL EMERGENCY MANAGEMENT AGENCY

VOLUME 1 OF 1



SAN JUAN COUNTY, COLORADO AND INCORPORATED AREAS

COMMUNITY NAME	NUMBER
SAN JUAN COUNTY UNINCORPORATED AREAS	080267
SILVERTON, TOWN OF	080165



FEMA

EFFECTIVE:

MAY 9, 2023

FLOOD INSURANCE STUDY NUMBER

08111CV000A

Version Number 2.6.4.6

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Volume 1

Exhibits

<u>Flood Profiles</u>	<u>Panel</u>
Animas River	01-07 P
Cement Creek	08-12 P
Mineral Creek	13-22 P

Published Separately

Flood Insurance Rate Map (FIRM)

FLOOD INSURANCE STUDY REPORT SAN JUAN COUNTY, COLORADO

SECTION 1.0 – INTRODUCTION

1.1 The National Flood Insurance Program

The National Flood Insurance Program (NFIP) is a voluntary Federal program that enables property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods.

For decades, the national response to flood disasters was generally limited to constructing flood-control works such as dams, levees, sea-walls, and the like, and providing disaster relief to flood victims. This approach did not reduce losses nor did it discourage unwise development. In some instances, it may have actually encouraged additional development. To compound the problem, the public generally could not buy flood coverage from insurance companies, and building techniques to reduce flood damage were often overlooked.

In the face of mounting flood losses and escalating costs of disaster relief to the general taxpayers, the U.S. Congress created the NFIP. The intent was to reduce future flood damage through community floodplain management ordinances, and provide protection for property owners against potential losses through an insurance mechanism that requires a premium to be paid for the protection.

The U.S. Congress established the NFIP on August 1, 1968, with the passage of the National Flood Insurance Act of 1968. The NFIP was broadened and modified with the passage of the Flood Disaster Protection Act of 1973 and other legislative measures. It was further modified by the National Flood Insurance Reform Act of 1994 and the Flood Insurance Reform Act of 2004. The NFIP is administered by the Federal Emergency Management Agency (FEMA), which is a component of the Department of Homeland Security (DHS).

Participation in the NFIP is based on an agreement between local communities and the Federal Government. If a community adopts and enforces floodplain management regulations to reduce future flood risks to new construction and substantially improved structures in Special Flood Hazard Areas (SFHAs), the Federal Government will make flood insurance available within the community as a financial protection against flood losses. The community's floodplain management regulations must meet or exceed criteria established in accordance with Title 44 Code of Federal Regulations (CFR) Part 60, *Criteria for Land Management and Use*.

SFHAs are delineated on the community's Flood Insurance Rate Maps (FIRMs). Under the NFIP, buildings that were built before the flood hazard was identified on the community's FIRMs are generally referred to as "Pre-FIRM" buildings. When the NFIP was created, the U.S. Congress recognized that insurance for Pre-FIRM buildings would be prohibitively expensive if the premiums were not subsidized by the Federal Government. Congress also recognized that most of these floodprone buildings were built by individuals who did not have sufficient knowledge of the flood hazard to make

informed decisions. The NFIP requires that full actuarial rates reflecting the complete flood risk be charged on all buildings constructed or substantially improved on or after the effective date of the initial FIRM for the community or after December 31, 1974, whichever is later. These buildings are generally referred to as "Post-FIRM" buildings.

1.2 Purpose of this Flood Insurance Study Report

This Flood Insurance Study (FIS) Report revises and updates information on the existence and severity of flood hazards for the study area. The studies described in this report developed flood hazard data that will be used to establish actuarial flood insurance rates and to assist communities in efforts to implement sound floodplain management.

In some states or communities, floodplain management criteria or regulations may exist that are more restrictive than the minimum Federal requirements. Contact your State NFIP Coordinator to ensure that any higher State standards are included in the community's regulations.

1.3 Jurisdictions Included in the Flood Insurance Study Project

This FIS Report covers the entire geographic area of San Juan County, Colorado.

The jurisdictions that are included in this project area, along with the Community Identification Number (CID) for each community and the United States Geological Survey (USGS) 8-digit Hydrologic Unit Code (HUC-8) sub-basins affecting each, are shown in Table 1. The FIRM panel numbers that affect each community are listed. If the flood hazard data for the community is not included in this FIS Report, the location of that data is identified.

Table 1: Listing of NFIP Jurisdictions

Community	CID	HUC-8 Sub-Basin(s)	Located on FIRM Panel(s)	If Not Included, Location of Flood Hazard Data
San Juan County, Unincorporated Areas	080267	13010001, 14020006, 14080101, 14080104	08111C0025C ¹ , 08111C0050C, 08111C0075C, 08111C0100C ¹ , 08111C0105C, 08111C0106C, 08111C0107C ¹ , 08111C0108C, 08111C0109C, 08111C0115C,	

Table 1: Listing of NFIP Jurisdictions

Community	CID	HUC-8 Sub-Basin(s)	Located on FIRM Panel(s)	If Not Included, Location of Flood Hazard Data
San Juan County, Unincorporated Areas (cont.)	080267	13010001, 14020006, 14080101, 14080104	08111C0116C, 08111C0117C ¹ , 08111C0118C ¹ , 08111C0119C ¹ , 08111C0150C, 08111C0175C ¹ , 08111C0200C ¹ , 08111C0225C ¹ , 08111C0250C ¹ , 08111C0275C ¹ , 08111C0300C ¹	
Silverton, Town of	080165	14080104	08111C0108C, 08111C0109C, 08111C0116C	

¹ Panel Not Printed

1.4 Considerations for using this Flood Insurance Study Report

The NFIP encourages State and local governments to implement sound floodplain management programs. To assist in this endeavor, each FIS Report provides floodplain data, which may include a combination of the following: 10-, 4-, 2-, 1-, and 0.2-percent annual chance flood elevations (the 1-percent-annual-chance flood elevation is also referred to as the Base Flood Elevation (BFE)); delineations of the 1-percent-annual-chance and 0.2-percent-annual-chance floodplains; and 1-percent-annual-chance floodway. This information is presented on the FIRM and/or in many components of the FIS Report, including Flood Profiles, Floodway Data tables, Summary of Non-Coastal Stillwater Elevations tables, and Coastal Transect Parameters tables (not all components may be provided for a specific FIS).

This section presents important considerations for using the information contained in this FIS Report and the FIRM, including changes in format and content. Figures 1, 2, and 3 present information that applies to using the FIRM with the FIS Report.

- Part or all of this FIS Report may be revised and republished at any time. In addition, part of this FIS Report may be revised by a Letter of Map Revision (LOMR), which does not involve republication or redistribution of the FIS Report. Refer to Section 6.5 of this FIS Report for information about the process to revise the FIS Report and/or FIRM.

It is, therefore, the responsibility of the user to consult with community officials by contacting the community repository to obtain the most current FIS Report components. Communities participating in the NFIP have established repositories of flood hazard data for floodplain management and flood insurance purposes. Community map repository addresses are provided in Table , "Map Repositories," within this FIS Report.

- New FIS Reports are frequently developed for multiple communities, such as entire counties. A countywide FIS Report incorporates previous FIS Reports for individual communities and the unincorporated area of the county (if not jurisdictional) into a single document and supersedes those documents for the purposes of the NFIP.

The initial Countywide FIS Report for San Juan County became effective on May 9, 2023. Refer to Table for information about subsequent revisions to the FIRMs.

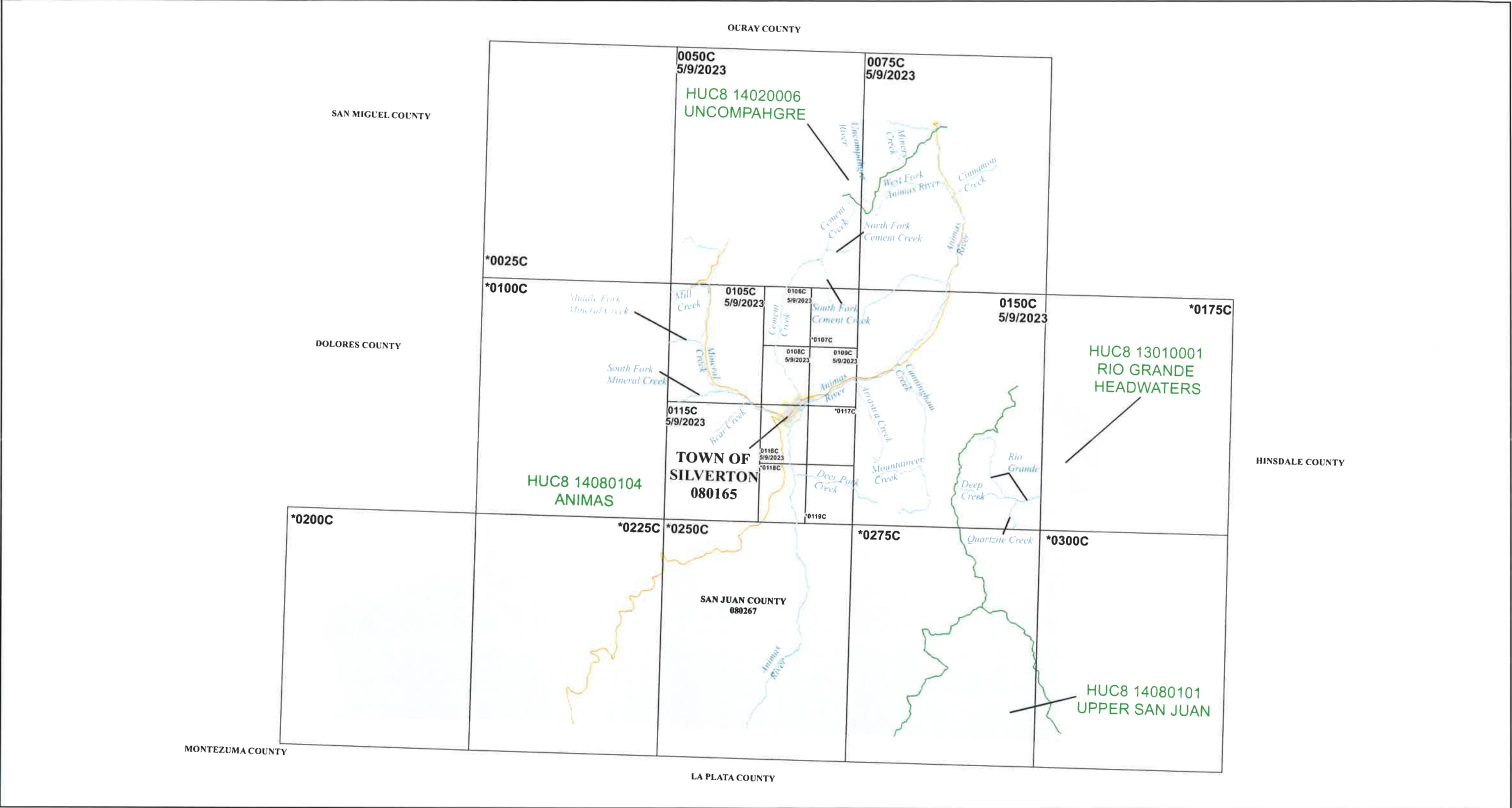
- Selected FIRM panels for the community may contain information (such as floodways and cross sections) that was previously shown separately on the corresponding Flood Boundary and Floodway Map (FBFM) panels. In addition, former flood hazard zone designations have been changed as follows:

<u>Old Zone</u>	<u>New Zone</u>
A1 through A30	AE
V1 through V30	VE
B	X (shaded)
C	X (unshaded)

- FEMA has developed a *Guide to Flood Maps* (FEMA 258) and online tutorials to assist users in accessing the information contained on the FIRM. These include how to read panels and step-by-step instructions to obtain specific information. To obtain this guide and other assistance in using the FIRM, visit the FEMA Web site at www.fema.gov/online-tutorials.

The FIRM Index in Figure 1 shows the overall FIRM panel layout within San Juan County, and also displays the panel number and effective date for each FIRM panel in the county. Other information shown on the FIRM Index includes community boundaries, flooding sources, watershed boundaries, and USGS HUC-8 codes.

Figure 1: FIRM Index



1 inch = 17,835 feet 1:214,025
0 9,000 18,000 36,000 feet

Map Projection:
Universal Transverse Mercator Zone 13N;
North American Datum 1983

THE INFORMATION DEPICTED ON THIS MAP AND SUPPORTING
DOCUMENTATION ARE ALSO AVAILABLE IN DIGITAL FORMAT AT
[HTTPS://MSC.FEMA.GOV](https://MSC.FEMA.GOV)

SEE FLOOD INSURANCE STUDY FOR ADDITIONAL INFORMATION
* PANEL NOT PRINTED - NO SPECIAL FLOOD HAZARD AREAS

COUNTY
LOCATOR

NATIONAL FLOOD INSURANCE PROGRAM
FLOOD INSURANCE RATE MAP INDEX
SAN JUAN COUNTY, COLORADO And Incorporated Areas
PANELS PRINTED:
0050, 0075, 0105, 0106, 0108, 0109, 0115, 0116, 0150

MAP NUMBER
08111CIND0A
EFFECTIVE DATE
MAY 9, 2023

Each FIRM panel may contain specific notes to the user that provide additional information regarding the flood hazard data shown on that map. However, the FIRM panel does not contain enough space to show all the notes that may be relevant in helping to better understand the information on the panel. Figure 2 contains the full list of these notes.

Figure 2: FIRM Notes to Users

<div><h2>NOTES TO USERS</h2><p>For information and questions about this map, available products associated with this FIRM including historic versions of this FIRM, how to order products, or the National Flood Insurance Program in general, please call the FEMA Map Information eXchange at 1-877-FEMA-MAP (1-877-336-2627) or visit the FEMA Flood Map Service Center website at msc.fema.gov. Available products may include previously issued Letters of Map Change, a Flood Insurance Study Report, and/or digital versions of this map. Many of these products can be ordered or obtained directly from the website. Users may determine the current map date for each FIRM panel by visiting the FEMA Flood Map Service Center website or by calling the FEMA Map Information eXchange.</p><p>Communities annexing land on adjacent FIRM panels must obtain a current copy of the adjacent panel as well as the current FIRM Index. These may be ordered directly from the Flood Map Service Center at the number listed above.</p><p>For community and countywide map dates, refer to Table in this FIS Report.</p><p>To determine if flood insurance is available in the community, contact your insurance agent or call the National Flood Insurance Program at 1-800-638-6620.</p></div>
<div><p>The map is for use in administering the NFIP. It may not identify all areas subject to flooding, particularly from local drainage sources of small size. Consult the community map repository to find updated or additional flood hazard information.</p><p>BASE FLOOD ELEVATIONS: For more detailed information in areas where Base Flood Elevations (BFEs) and/or floodways have been determined, consult the Flood Profiles and Floodway Data and/or Summary of Non-Coastal Stillwater Elevations tables within this FIS Report. Use the flood elevation data within the FIS Report in conjunction with the FIRM for construction and/or floodplain management.</p></div>
<div><p>FLOODWAY INFORMATION: Boundaries of the floodways were computed at cross sections and interpolated between cross sections. The floodways were based on hydraulic considerations with regard to requirements of the National Flood Insurance Program. Floodway widths and other pertinent floodway data are provided in the FIS Report for this jurisdiction.</p><p>FLOOD CONTROL STRUCTURE INFORMATION: Certain areas not in Special Flood Hazard Areas may be protected by flood control structures. Refer to Section 4.3 "Non-Levee Flood Protection Measures" of this FIS Report for information on flood control structures for this jurisdiction.</p></div>

Figure 2: FIRM Notes to Users

PROJECTION INFORMATION: The projection used in the preparation of the map was Universal Transverse Mercator (UTM) Zone 13. The horizontal datum was the North American Datum of 1983 NAD83, GRS1980 spheroid. Differences in datum, spheroid, projection or State Plane zones used in the production of FIRMs for adjacent jurisdictions may result in slight positional differences in map features across jurisdiction boundaries. These differences do not affect the accuracy of the FIRM.

ELEVATION DATUM: Flood elevations on the FIRM are referenced to the North American Vertical Datum of 1988. These flood elevations must be compared to structure and ground elevations referenced to the same vertical datum. For information regarding conversion between the National Geodetic Vertical Datum of 1929 and the North American Vertical Datum of 1988, visit the National Geodetic Survey website at www.ngs.noaa.gov.

Local vertical monuments may have been used to create the map. To obtain current monument information, please contact the appropriate local community listed in Table of this FIS Report.

BASE MAP INFORMATION: Base map information shown on this FIRM was derived from U.S. Census Bureau TIGER files, the U.S. Geological Survey, and the San Juan County Department, dated 2019, and the U.S. Department of Agriculture dated 2016.

Corporate limits shown on the map are based on the best data available at the time of publication. Because changes due to annexations or de-annexations may have occurred after the map was published, map users should contact appropriate community officials to verify current corporate limit locations.

NOTES FOR FIRM INDEX

REVISIONS TO INDEX: As new studies are performed and FIRM panels are updated within San Juan County, CO, corresponding revisions to the FIRM Index will be incorporated within the FIS Report to reflect the effective dates of those panels. Please refer to Table 27 of this FIS Report to determine the most recent FIRM revision date for each community. The most recent FIRM panel effective date will correspond to the most recent index date.

SPECIAL NOTES FOR SPECIFIC FIRM PANELS

This Notes to Users section was created specifically for San Juan County, CO, effective May 9, 2023.

FLOOD RISK REPORT: A Flood Risk Report (FRR) may be available for many of the flooding sources and communities referenced in this FIS Report. The FRR is provided to increase public awareness of flood risk by helping communities identify the areas within their jurisdictions that have the greatest risks. Although non-regulatory, the information provided within the FRR can assist communities in assessing and evaluating mitigation opportunities to reduce these risks. It can also be used by communities developing or updating flood risk mitigation plans. These plans allow communities to identify and evaluate opportunities to reduce potential loss of life and property. However, the FRR is not intended to be the final authoritative source of all flood risk data for a project area; rather, it should be used with other data sources to paint a comprehensive picture of flood risk.

Each FIRM panel contains an abbreviated legend for the features shown on the maps. However, the FIRM panel does not contain enough space to show the legend for all map features. Figure 3 shows the full legend of all map features. Note that not all of these features may appear on the FIRM panels in San Juan County.

Figure 3: Map Legend for FIRM



<p>SPECIAL FLOOD HAZARD AREAS: The 1% annual chance flood, also known as the base flood or 100-year flood, has a 1% chance of happening or being exceeded each year. Special Flood Hazard Areas are subject to flooding by the 1% annual chance flood. The Base Flood Elevation is the water surface elevation of the 1% annual chance flood. The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increases in flood heights. See note for specific types. If the floodway is too narrow to be shown, a note is shown.</p>	
	Special Flood Hazard Areas subject to inundation by the 1% annual chance flood (Zones A, AE, AH, AO, AR, A99, V and VE)
Zone A	The flood insurance rate zone that corresponds to the 1% annual chance floodplains. No base (1% annual chance) flood elevations (BFEs) or depths are shown within this zone.
Zone AE	The flood insurance rate zone that corresponds to the 1% annual chance floodplains. Base flood elevations derived from the hydraulic analyses are shown within this zone.
Zone AH	The flood insurance rate zone that corresponds to the areas of 1% annual chance shallow flooding (usually areas of ponding) where average depths are between 1 and 3 feet. Whole-foot BFEs derived from the hydraulic analyses are shown at selected intervals within this zone.
Zone AO	The flood insurance rate zone that corresponds to the areas of 1% annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between 1 and 3 feet. Average whole-foot depths derived from the hydraulic analyses are shown within this zone.
Zone AR	The flood insurance rate zone that corresponds to areas that were formerly protected from the 1% annual chance flood by a flood control system that was subsequently decertified. Zone AR indicates that the former flood control system is being restored to provide protection from the 1% annual chance or greater flood.
Zone A99	The flood insurance rate zone that corresponds to areas of the 1% annual chance floodplain that will be protected by a Federal flood protection system where construction has reached specified statutory milestones. No base flood elevations or flood depths are shown within this zone.
Zone V	The flood insurance rate zone that corresponds to the 1% annual chance coastal floodplains that have additional hazards associated with storm waves. Base flood elevations are not shown within this zone.
Zone VE	Zone VE is the flood insurance rate zone that corresponds to the 1% annual chance coastal floodplains that have additional hazards associated with storm waves. Base flood elevations derived from the coastal analyses are shown within this zone as static whole-foot elevations that apply throughout the zone.
	Regulatory Floodway determined in Zone AE.

Figure 3: Map Legend for FIRM















OTHER AREAS OF FLOOD HAZARD	
	Shaded Zone X: Areas of 0.2% annual chance flood hazards and areas of 1% annual chance flood hazards with average depths of less than 1 foot or with drainage areas less than 1 square mile.
	Future Conditions 1% Annual Chance Flood Hazard – Zone X: The flood insurance rate zone that corresponds to the 1% annual chance floodplains that are determined based on future-conditions hydrology. No base flood elevations or flood depths are shown within this zone.
	Area with Reduced Flood Risk due to Levee: Areas where an accredited levee, dike, or other flood control structure has reduced the flood risk from the 1% annual chance flood.
	Area with Flood Risk due to Levee: Areas where a non-accredited levee, dike, or other flood control structure is shown as providing protection to less than the 1% annual chance flood.
OTHER AREAS	
	Zone D (Areas of Undetermined Flood Hazard): The flood insurance rate zone that corresponds to unstudied areas where flood hazards are undetermined, but possible.
<div>NO SCREEN</div>	Unshaded Zone X: Areas of minimal flood hazard.
FLOOD HAZARD AND OTHER BOUNDARY LINES	
 (ortho)  (vector)	Flood Zone Boundary (white line on ortho-photography-based mapping; gray line on vector-based mapping)
	Limit of Study
	Jurisdiction Boundary
	Limit of Moderate Wave Action (LiMWA): Indicates the inland limit of the area affected by waves greater than 1.5 feet
GENERAL STRUCTURES	
 Aqueduct Channel Culvert Storm Sewer	Channel, Culvert, Aqueduct, or Storm Sewer
 Dam Jetty Weir	Dam, Jetty, Weir
	Levee, Dike, or Floodwall
 Bridge	Bridge

Figure 3: Map Legend for FIRM


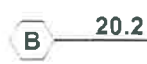











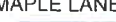




REFERENCE MARKERS	
	River mile Markers
CROSS SECTION & TRANSECT INFORMATION	
	Lettered Cross Section with Regulatory Water Surface Elevation (BFE)
	Numbered Cross Section with Regulatory Water Surface Elevation (BFE)
	Unlettered Cross Section with Regulatory Water Surface Elevation (BFE)
	Coastal Transect
	Profile Baseline: Indicates the modeled flow path of a stream and is shown on FIRM panels for all valid studies with profiles or otherwise established base flood elevation.
	Coastal Transect Baseline: Used in the coastal flood hazard model to represent the 0.0-foot elevation contour and the starting point for the transect and the measuring point for the coastal mapping.
	Base Flood Elevation Line
ZONE AE (EL 16)	Static Base Flood Elevation value (shown under zone label)
ZONE AO (DEPTH 2)	Zone designation with Depth
ZONE AO (DEPTH 2) (VEL 15 FPS)	Zone designation with Depth and Velocity
BASE MAP FEATURES	
	River, Stream or Other Hydrographic Feature
	Interstate Highway
	U.S. Highway
	State Highway
	County Highway
MAPLE LANE 	Street, Road, Avenue Name, or Private Drive if shown on Flood Profile
 RAILROAD	Railroad
	Horizontal Reference Grid Line

Figure 3: Map Legend for FIRM

	Horizontal Reference Grid Ticks
	Secondary Grid Crosshairs
Land Grant	Name of Land Grant
7	Section Number
R. 43 W. T. 22 N.	Range, Township Number
42° 76' 00" E	Horizontal Reference Grid Coordinates (UTM)
365000 FT	Horizontal Reference Grid Coordinates (State Plane)
80° 16' 52.5"	Corner Coordinates (Latitude, Longitude)

SECTION 2.0 – FLOODPLAIN MANAGEMENT APPLICATIONS

2.1 Floodplain Boundaries

To provide a national standard without regional discrimination, the 1-percent-annual-chance (100-year) flood has been adopted by FEMA as the base flood for floodplain management purposes. The 0.2-percent-annual-chance (500-year) flood is employed to indicate additional areas of flood hazard in the community.

Each flooding source included in the project scope has been studied and mapped using professional engineering and mapping methodologies that were agreed upon by FEMA and San Juan County as appropriate to the risk level. Flood risk is evaluated based on factors such as known flood hazards and projected impact on the built environment. Engineering analyses were performed for each studied flooding source to calculate its 1-percent-annual-chance flood elevations; elevations corresponding to other floods (e.g. 10-, 4-, 2-, 0.2-percent annual chance, etc.) may have also been computed for certain flooding sources. Engineering models and methods are described in detail in Section 5.0 of this FIS Report. The modeled elevations at cross sections were used to delineate the floodplain boundaries on the FIRM; between cross sections, the boundaries were interpolated using elevation data from various sources. More information on specific mapping methods is provided in Section 6.0 of this FIS Report.

Depending on the accuracy of available topographic data (Table), study methodologies employed (Section 5.0), and flood risk, certain flooding sources may be mapped to show both the 1-percent and 0.2-percent-annual-chance floodplain boundaries, regulatory water surface elevations (BFEs), and/or a regulatory floodway. Similarly, other flooding sources may be mapped to show only the 1-percent-annual-chance floodplain boundary on the FIRM, without published water surface elevations. In cases where the 1-percent and 0.2-percent-annual-chance floodplain boundaries are close together, only the 1-percent-annual-chance floodplain boundary is shown on the FIRM. Figure 3, "Map Legend for FIRM", describes the flood zones that are used on the FIRMs to account for the varying levels of flood risk that exist along flooding sources within the project area. Table 2 and Table 3 indicate the flood zone designations for each flooding source and each community within San Juan County, respectively.

Table 2, "Flooding Sources Included in this FIS Report," lists each flooding source, including its study limits, affected communities, mapped zone on the FIRM, and the completion date of its engineering analysis from which the flood elevations on the FIRM and in the FIS Report were derived. Descriptions and dates for the latest hydrologic and hydraulic analyses of the flooding sources are shown in Table 12. Floodplain boundaries for these flooding sources are shown on the FIRM (published separately) using the symbology described in Figure 3. On the map, the 1-percent-annual-chance floodplain corresponds to the SFHAs. The 0.2-percent-annual-chance floodplain shows areas that, although out of the regulatory floodplain, are still subject to flood hazards.

Small areas within the floodplain boundaries may lie above the flood elevations but cannot be shown due to limitations of the map scale and/or lack of detailed topographic data. The procedures to remove these areas from the SFHA are described in Section 6.5 of this FIS Report.

Table 2: Flooding Sources Included in this FIS Report

Flooding Source	Community	Downstream Limit	Upstream Limit	HUC-8 Sub-Basin(s)	Length (mi) (streams or coastlines)	Area (mi ²) (estuaries or ponding)	Floodway (Y/N)	Zone shown on FIRM	Date of Analysis
Animas River	San Juan, Unincorporated Areas; Silverton, Town of	Approximately 1.0 mile downstream of confluence of Mineral Creek	Approximately 1.2 miles upstream of County Road 20	14080104	2.8		Y	Zone AE	11/29/19
Animas River	San Juan, Unincorporated Areas	Approximately 1.2 miles upstream of County Road 20	Confluence of West Fork Animas River and North Fork Animas River	14080104	8.3		N	Zone A	11/29/19
Cement Creek	San Juan, Unincorporated Areas, Silverton, Town of	Confluence with Animas River	Approximately 0.7 mile upstream of Greene Street	14080104	0.8		Y	Zone AE	11/29/19
Cement Creek	San Juan, Unincorporated Areas	Approximately 0.7 mile upstream of Greene Street	County Road 10	14080104	6.7		N	Zone A	11/29/19
Mineral Creek	San Juan, Unincorporated Areas, Silverton, Town of	Confluence with Animas River	Approximately 2.9 miles upstream of confluence with Animas River	14080104	2.0		Y	Zone AE	11/29/19
Mineral Creek	San Juan, Unincorporated Areas	Approximately 2.9 miles upstream of confluence with Animas River	Approximately 1.8 miles upstream of U.S. Highway 550	14080104	6.1		N	Zone A	11/29/19
North Fork Animas River	San Juan, Unincorporated Areas	Confluence with Animas River	Approximately 0.2 mile upstream of County Road 2	14080104	1.4		N	Zone A	11/29/19

Table 2: Flooding Sources Included in this FIS Report

Flooding Source	Community	Downstream Limit	Upstream Limit	HUC-8 Sub-Basin(s)	Length (mi) (streams or coastlines)	Area (mi ²) (estuaries or ponding)	Floodway (Y/N)	Zone shown on FIRM	Date of Analysis
West Fork Animas River	San Juan, Unincorporated Areas	Confluence with Animas River	Approximately 2.6 miles upstream of Picane Gulch Road	14080104	2.5		N	Zone A	11/29/19

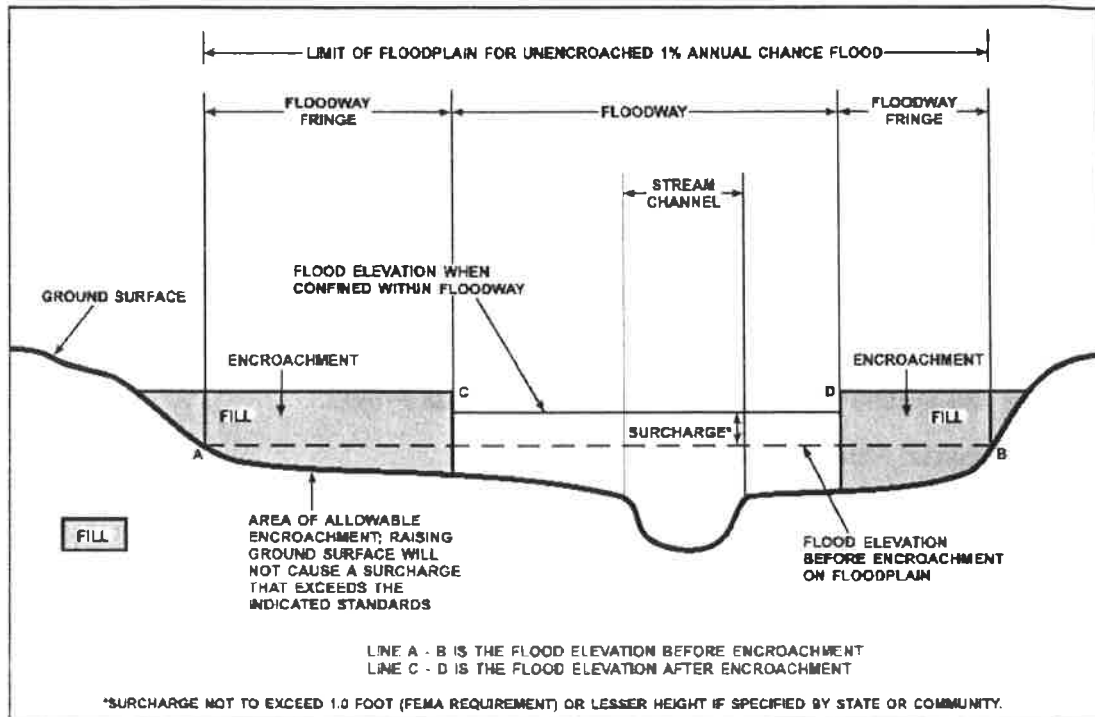
2.2 Floodways

Encroachment on floodplains, such as structures and fill, reduces flood-carrying capacity, increases flood heights and velocities, and increases flood hazards in areas beyond the encroachment itself. One aspect of floodplain management involves balancing the economic gain from floodplain development against the resulting increase in flood hazard.

For purposes of the NFIP, a floodway is used as a tool to assist local communities in balancing floodplain development against increasing flood hazard. With this approach, the area of the 1-percent-annual-chance floodplain on a river is divided into a floodway and a floodway fringe based on hydraulic modeling. The floodway is the channel of a stream, plus any adjacent floodplain areas, that must be kept free of encroachment in order to carry the 1-percent-annual-chance flood. The floodway fringe is the area between the floodway and the 1-percent-annual-chance floodplain boundaries where encroachment is permitted. The floodway must be wide enough so that the floodway fringe could be completely obstructed without increasing the water surface elevation of the 1-percent-annual-chance flood more than 1 foot at any point. Typical relationships between the floodway and the floodway fringe and their significance to floodplain development are shown in Figure 4.

To participate in the NFIP, Federal regulations require communities to limit increases caused by encroachment to 1.0 foot, provided that hazardous velocities are not produced. Regulations for Colorado require communities in San Juan County to limit increases caused by encroachment to 0.5 foot and several communities have adopted additional restrictions. The floodways in this project are presented to local agencies as minimum standards that can be adopted directly or that can be used as a basis for additional floodway projects.

Figure 4: Floodway Schematic



Floodway widths presented in this FIS Report and on the FIRM were computed at cross sections. Between cross sections, the floodway boundaries were interpolated. For certain stream segments, floodways were adjusted so that the amount of floodwaters conveyed on each side of the floodplain would be reduced equally. The results of the floodway computations have been tabulated for selected cross sections and are shown in Table 23, "Floodway Data."

All floodways that were developed for this Flood Risk Project are shown on the FIRM using the symbology described in Figure 3. In cases where the floodway and 1-percent-annual-chance floodplain boundaries are either close together or collinear, only the floodway boundary has been shown on the FIRM. For information about the delineation of floodways on the FIRM, refer to Section 6.3.

2.3 Base Flood Elevations

The hydraulic characteristics of flooding sources were analyzed to provide estimates of the elevations of floods of the selected recurrence intervals. The BFE is the elevation of the 1-percent-annual-chance flood. These BFEs are most commonly rounded to the whole foot, as shown on the FIRM, but in certain circumstances or locations they may be rounded to 0.1 foot. Cross section lines shown on the FIRM may also be labeled with the BFE rounded to 0.1 foot. Whole-foot BFEs derived from engineering analyses that apply to coastal areas, areas of ponding, or other static areas with little elevation change may also be shown at selected intervals on the FIRM.

BFEs are primarily intended for flood insurance rating purposes. Cross sections with

BFEs shown on the FIRM correspond to the cross sections shown in the Floodway Data table and Flood Profiles in this FIS Report. For construction and/or floodplain management purposes, users are cautioned to use the flood elevation data presented in this FIS Report in conjunction with the data shown on the FIRM. For example, the user may use the FIRM to determine the stream station of a location of interest and then use the profile to determine the 1-percent annual chance elevation at that location. Because only selected cross sections may be shown on the FIRM for riverine areas, the profile should be used to obtain the flood elevation between mapped cross sections. Additionally, for riverine areas, whole-foot elevations shown on the FIRM may not exactly reflect the elevations derived from the hydraulic analyses; therefore, elevations obtained from the profile may more accurately reflect the results of the hydraulic analysis.

2.4 Non-Encroachment Zones

This section is not applicable to this Flood Risk Project.

2.5 Coastal Flood Hazard Areas

This section is not applicable to this Flood Risk Project.

2.5.1 Water Elevations and the Effects of Waves

This section is not applicable to this Flood Risk Project.

Figure 5: Wave Runup Transect Schematic

[Not Applicable to this Flood Risk Project]

2.5.2 Floodplain Boundaries and BFEs for Coastal Areas

This section is not applicable to this Flood Risk Project.

2.5.3 Coastal High Hazard Areas

This section is not applicable to this Flood Risk Project.

Figure 6: Coastal Transect Schematic

[Not Applicable to this Flood Risk Project]

2.5.4 Limit of Moderate Wave Action

This section is not applicable to this Flood Risk Project.

SECTION 3.0 – INSURANCE APPLICATIONS

3.1 National Flood Insurance Program Insurance Zones

For flood insurance applications, the FIRM designates flood insurance rate zones as described in Figure 3, "Map Legend for FIRM." Flood insurance zone designations are assigned to flooding sources based on the results of the hydraulic or coastal analyses. Insurance agents use the zones shown on the FIRM and depths and base flood elevations in this FIS Report in conjunction with information on structures and their

contents to assign premium rates for flood insurance policies.

The 1-percent-annual-chance floodplain boundary corresponds to the boundary of the areas of special flood hazards (e.g. Zones A, AE, V, VE, etc.), and the 0.2-percent-annual-chance floodplain boundary corresponds to the boundary of areas of additional flood hazards.

Table 3 lists the flood insurance zones in San Juan County.

Table 3: Flood Zone Designations by Community

Community	Flood Zone(s)
San Juan County, Unincorporated Areas	A, AE, X
Silverton, Town of	AE, X

SECTION 4.0 – AREA STUDIED

4.1 Basin Description

Table 4 contains a description of the characteristics of the HUC-8 sub-basins within which each community falls. The table includes the main flooding sources within each basin, a brief description of the basin, and its drainage area.

Table 4: Basin Characteristics

HUC-8 Sub-Basin Name	HUC-8 Sub-Basin Number	Primary Flooding Source	Description of Affected Area	Drainage Area (square miles)
Animas	14080104	Animas River	Largest watershed with San Juan County	328
Rio Grande Headwaters	13010001	Rio Grande	Small portion of watershed affecting eastern portion of San Juan County	35
Uncompahgre	14020006	Uncompahgre River	Small portion of watershed affecting northern portion of San Juan County	7
Upper San Juan	14080101	San Juan River	Small portion of watershed affecting southern portion of San Juan County	19

4.2 Principal Flood Problems San Juan River

Table 5 contains a description of the principal flood problems that have been noted for San Juan County by flooding source.

Table 5: Principal Flood Problems

Flooding Source	Description of Flood Problems
Animas River	The 1884 flood was the first known flood on the Animas River. In the Town of Silverton, bridges and homes were being swept away. The second highest flood on record occurred in 1927, destroying the railroad along Animas River. The 1970 flood caused railroad damage of approximately \$500,000.
Cement Creek	In 1911, on Cement Creek, high waters broke over banks just above the highway bridge and flooded the main street. The highway bridges spanning Cement Creek are two troublesome spots where stream channel construction backs up water, causing flooding in the streets.
Mineral Creek	The highway bridges spanning Mineral Creek are two troublesome spots where stream channel construction backs up water, causing flooding in the streets.

Table 6 contains information about historic flood elevations in the communities within San Juan County.

Table 6: Historic Flooding Elevations
[Not Applicable to this Flood Risk Project]

4.3 Non-Levee Flood Protection Measures

Table 7 contains information about non-levee flood protection measures within San Juan County such as dams, jetties, and or dikes. Levees are addressed in Section 4.4 of this FIS Report.

Table 7: Non-Levee Flood Protection Measures
[Not Applicable to this Flood Risk Project]

4.4 Levees

This section is not applicable to this Flood Risk Project.

Table 8: Levees
[Not Applicable to this Flood Risk Project]

SECTION 5.0 – ENGINEERING METHODS

For the flooding sources in the community, standard hydrologic and hydraulic study methods were used to determine the flood hazard data required for this study. Flood events of a magnitude that are expected to be equaled or exceeded at least once on the average during any 10-, 25-, 50-, 100-, or 500-year period (recurrence interval) have been selected as having special significance for floodplain management and for flood insurance rates. These events, commonly termed the 10-, 25-, 50-, 100-, and 500-year floods, have a 10-, 4-, 2-, 1-, and 0.2-percent-annual-chance, respectively, of being equaled or exceeded during any year.

Although the recurrence interval represents the long-term, average period between floods of a specific magnitude, rare floods could occur at short intervals or even within the same year. The risk of experiencing a rare flood increases when periods greater than 1 year are considered. For example, the risk of having a flood that equals or exceeds the 100-year flood (1-percent chance of annual exceedance) during the term of a 30-year mortgage is approximately 26 percent (about 3 in 10); for any 90-year period, the risk increases to approximately 60 percent (6 in 10). The analyses reported herein reflect flooding potentials based on conditions existing in the community at the time of completion of this study. Maps and flood elevations will be amended periodically to reflect future changes.

In addition to these flood events, the "1-percent-plus", or "1%+", annual chance flood elevation has been modeled and included on the flood profile for certain flooding sources in this FIS Report. While not used for regulatory or insurance purposes, this flood event has been calculated to help illustrate the variability range that exists between the regulatory 1-percent-annual-chance flood elevation and a 1-percent-annual-chance elevation that has taken into account an additional amount of uncertainty in the flood discharges (thus, the 1% "plus"). For flooding sources whose discharges were estimated using regression equations, the 1%+ flood elevations are derived by taking the 1-percent-annual-chance flood discharges and increasing the modeled discharges by a percentage equal to the average predictive error for the regression equation. For flooding sources with gage- or rainfall-runoff-based discharge estimates, the upper 84-percent confidence limit of the discharges is used to compute the 1%+ flood elevations.

5.1 Hydrologic Analyses

Hydrologic analyses were carried out to establish the peak elevation-frequency relationships for floods of the selected recurrence intervals for each flooding source studied. Hydrologic analyses are typically performed at the watershed level. Depending on factors such as watershed size and shape, land use and urbanization, and natural or man-made storage, various models or methodologies may be applied. A summary of the hydrologic methods applied to develop the discharges used in the hydraulic analyses for each stream is provided in Table 12. Greater detail (including assumptions, analysis, and results) is available in the archived project documentation.

A summary of the discharges is provided in Table 9. Frequency Discharge-Drainage Area Curves used to develop the hydrologic models may also be shown in Figure for selected flooding sources.

Table 9: Summary of Discharges

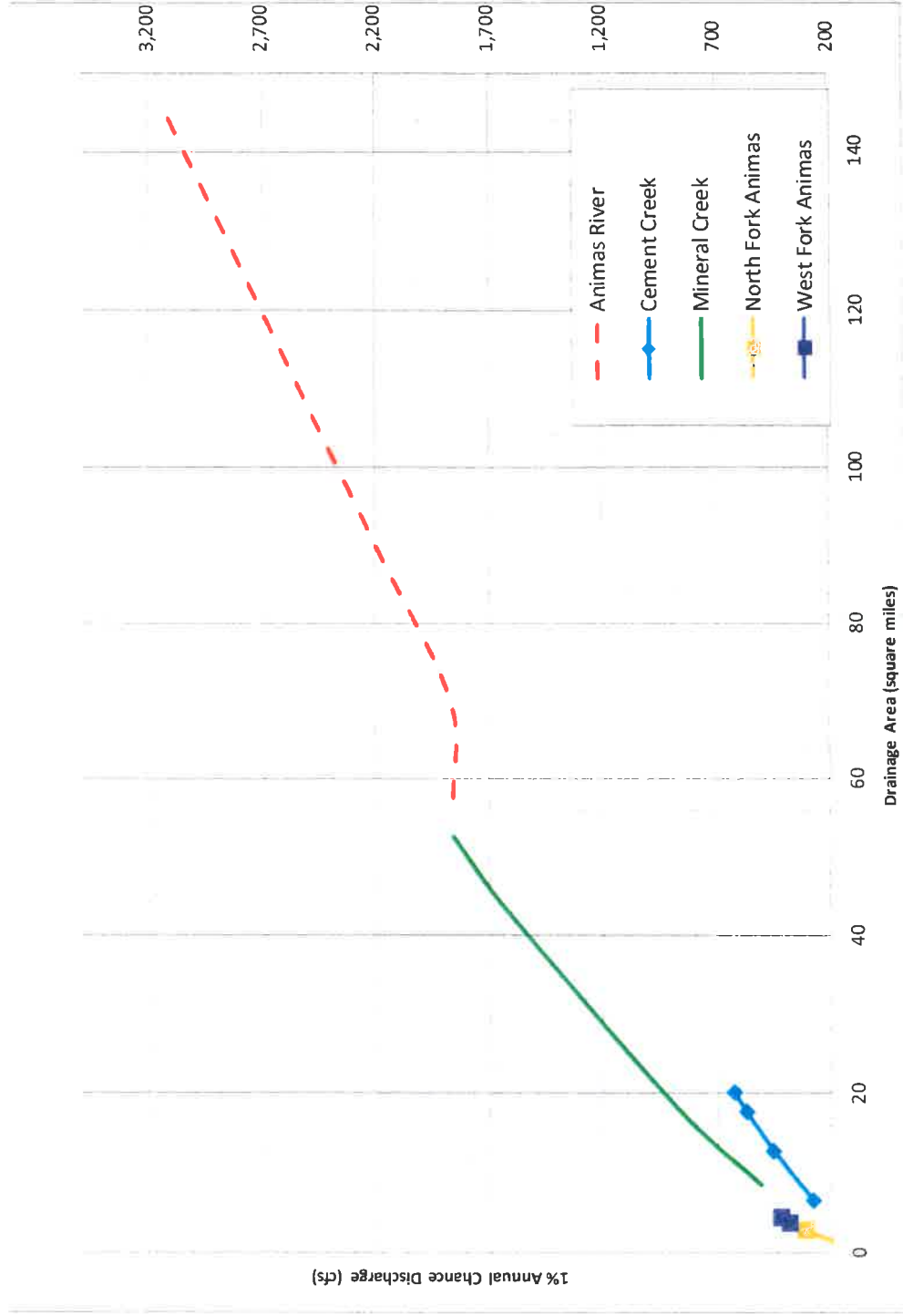
Flooding Source	Location	Drainage Area (Square Miles)	Peak Discharge (cfs)					
			10% Annual Chance	4% Annual Chance	2% Annual Chance	1% Annual Chance	1% Annual Chance Plus	0.2% Annual Chance
Animas River	USGS Gage 09359020, Animas Below Silverton	146.2	2,808	2,955	3,053	3,142	3,351	3,329
Animas River	Downstream of Cement Creek Confluence	92	1,848	2,014	2,127	2,232	2,473	2,453
Animas River	USGS Gage 09358000, Animas at Silverton	70.6	1,470	1,644	1,763	1,873	2,127	2,108
Animas River	CDWR Gage, Animas at Howardsville	57.6	1,419	1,604	1,733	1,855	2,193	2,119
Cement Creek	USGS Gage 09358550, Cement Creek at Silverton	20.1	466	532	578	624	733	725
Cement Creek	1.5 miles upstream of Gage 09358550	17.7	429	489	532	574	674	668
Cement Creek	2.5 miles downstream of Confluence of South Fork Cement Creek	12.8	339	387	421	454	534	529
Cement Creek	Downstream of South Fork Cement Creek	6.6	213	242	264	285	334	331
Mineral Creek	USGS Gage 9359010, Mineral Creek at Silverton	52.6	1,338	1,550	1,706	1,860	2,230	2,218
Mineral Creek	Downstream of South Fork Mineral Creek	42.5	1,157	1,340	1,474	1,608	1,927	1,917

Table 9: Summary of Discharges

Flooding Source	Location	Drainage Area (Square Miles)	Peak Discharge (cfs)					
			10% Annual Chance	4% Annual Chance	2% Annual Chance	1% Annual Chance	1% Annual Chance Plus	0.2% Annual Chance
Mineral Creek	Downstream of Middle Fork Mineral Creek	18	628	727	800	872	1,046	1,040
Mineral Creek	Downstream of Mill Creek	8.5	368	426	469	511	613	609
North Fork Animas	At Confluence with Animas River	2.74	147	215	267	321	543	481
North Fork Animas	At Horseshoe Creek	0.5	52	77	98	118	199	179
West Fork Animas	Downstream of Placer Gulch Confluence	4.39	195	285	353	424	717	632
West Fork Animas	At Confluence with Animas River	3.78	178	260	323	388	656	580

*Data not Available

Figure 7: Frequency Discharge-Drainage Area Curves



**Table 10: Summary of Non-Coastal Stillwater Elevations
[Not Applicable to this Flood Risk Project]**

Table 11: Stream Gage Information used to Determine Discharges

Flooding Source	Gage Identifier	Agency that Maintains Gage	Site Name	Drainage Area (Square Miles)	Period of Record	
					From	To
Animas River	09359020	USGS	Animas River below Silverton, CO	146	6/12/1992	6/10/2017
Animas River	09358000	USGS	Animas River at Silverton	70.6	6/12/1992	6/5/2017
Animas River	ANIHOWCO	CDWR	Animas River at Howardsville, CO	55.9	6/8/1991	6/18/2017
Animas River	09359010	USGS	Mineral Creek at Silverton, CO	52.3	7/25/1992	6/18/2017
Cement Creek	09358550	USGS	Cement Creek at Silverton, CO	20.1	6/12/1992	6/10/2017

5.2 Hydraulic Analyses

Analyses of the hydraulic characteristics of flooding from the sources studied were carried out to provide estimates of the elevations of floods of the selected recurrence intervals. Base flood elevations on the FIRM represent the elevations shown on the Flood Profiles and in the Floodway Data tables in the FIS Report. Rounded whole-foot elevations may be shown on the FIRM in coastal areas, areas of ponding, and other areas with static base flood elevations. These whole-foot elevations may not exactly reflect the elevations derived from the hydraulic analyses. Flood elevations shown on the FIRM are primarily intended for flood insurance rating purposes. For construction and/or floodplain management purposes, users are cautioned to use the flood elevation data presented in this FIS Report in conjunction with the data shown on the FIRM. The hydraulic analyses for this FIS were based on unobstructed flow. The flood elevations shown on the profiles are thus considered valid only if hydraulic structures remain unobstructed, operate properly, and do not fail.

For streams for which hydraulic analyses were based on cross sections, locations of selected cross sections are shown on the Flood Profiles (Exhibit 1). For stream segments for which a floodway was computed (Section 6.3), selected cross sections are also listed in Table 23, "Floodway Data."

A summary of the methods used in hydraulic analyses performed for this project is provided in Table 12. Roughness coefficients are provided in Table 13. Roughness coefficients are values representing the frictional resistance water experiences when passing overland or through a channel. They are used in the calculations to determine water surface elevations. Greater detail (including assumptions, analysis, and results) is available in the archived project documentation.

Table 12: Summary of Hydrologic and Hydraulic Analyses

Flooding Source	Study Limits Downstream Limit	Study Limits Upstream Limit	Hydrologic Model or Method Used	Hydraulic Model or Method Used	Date Analyses Completed	Flood Zone on FIRM	Special Considerations
Animas River	Approximately 1.0 mile downstream of confluence of Mineral Creek	Approximately 1.2 miles upstream of County Road 20	Gage Analysis	HEC-RAS 5.0.6	11/29/19	Zone AE with Floodway	
Animas River	Approximately 1.2 miles upstream of County Road 20	Confluence of West Fork Animas River and North Fork Animas River	Gage Analysis	HEC-RAS 5.0.6	11/29/19	Zone A	
Cement Creek	Confluence with Animas River	Approximately 0.7 mile upstream of Greene Street	Gage Analysis	HEC-RAS 5.0.6	11/29/19	Zone AE with Floodway	
Cement Creek	Approximately 0.7 mile upstream of Greene Street	County Road 10	Gage Analysis	HEC-RAS 5.0.6	11/29/19	Zone A	
Mineral Creek	Confluence with Animas River	Approximately 2.9 miles upstream of confluence with Animas River	Gage Analysis	HEC-RAS 5.0.6	11/29/19	Zone AE with Floodway	
Mineral Creek	Approximately 2.9 miles upstream of confluence with Animas River	Approximately 1.8 miles upstream of U.S. Highway 550	Gage Analysis	HEC-RAS 5.0.6	11/29/19	Zone A	
North Fork Animas River	Confluence with Animas River	Approximately 0.2 mile upstream of County Road 2	Regression Analysis	HEC-RAS 5.0.5	11/29/19	Zone A	
West Fork Animas River	Confluence with Animas River	Approximately 2.6 miles upstream of Picane Gulch Road	Regression Analysis	HEC-RAS 5.0.5	11/29/19	Zone A	

Table 13: Roughness Coefficients

Flooding Source	Channel "n"	Overbank "n"
Animas River	0.04-0.048	0.016-0.12
Cement Creek	0.045-0.055	0.013-0.095
Mineral Creek	0.035-0.048	0.016-0.13

5.3 Coastal Analyses

This section is not applicable to this Flood Risk Project.

Table 14: Summary of Coastal Analyses
[Not Applicable to this Flood Risk Project]

5.3.1 Total Stillwater Elevations

This section is not applicable to this Flood Risk Project.

Figure 8: 1% Annual Chance Total Stillwater Elevations for Coastal Areas
[Not applicable to this Flood Risk Project]

Table 15: Tide Gage Analysis Specifics
[Not applicable to this Flood Risk Project]

5.3.2 Waves

This section is not applicable to this Flood Risk Project.

5.3.3 Coastal Erosion

This section is not applicable to this Flood Risk Project.

5.3.4 Wave Hazard Analyses

This section is not applicable to this Flood Risk Project.

Table 16: Coastal Transect Parameters
[Not Applicable to this Flood Risk Project]

Figure 9: Transect Location Map
[Not Applicable to this Flood Risk Project]

5.4 Alluvial Fan Analyses

This section is not applicable to this Flood Risk Project.

Table 17: Summary of Alluvial Fan Analyses
[Not Applicable to this Flood Risk Project]

Table 18: Results of Alluvial Fan Analyses
[Not applicable to this Flood Risk Project]

SECTION 6.0 – MAPPING METHODS

6.1 Vertical and Horizontal Control

All FIS Reports and FIRMs are referenced to a specific vertical datum. The vertical datum provides a starting point against which flood, ground, and structure elevations can be referenced and compared. Until recently, the standard vertical datum used for newly created or revised FIS Reports and FIRMs was the National Geodetic Vertical Datum of 1929 (NGVD29). With the completion of the North American Vertical Datum of 1988 (NAVD88), many FIS Reports and FIRMs are now prepared using NAVD88 as the referenced vertical datum.

Flood elevations shown in this FIS Report and on the FIRMs are referenced to NAVD88. These flood elevations must be compared to structure and ground elevations referenced to the same vertical datum. For information regarding conversion between NGVD29 and NAVD88 or other datum conversion, visit the National Geodetic Survey website at www.ngs.noaa.gov.

Temporary vertical monuments are often established during the preparation of a flood hazard analysis for the purpose of establishing local vertical control. Although these monuments are not shown on the FIRM, they may be found in the archived project documentation associated with the FIS Report and the FIRMs for this community. Interested individuals may contact FEMA to access these data.

To obtain current elevation, description, and/or location information for benchmarks in the area, please visit the NGS website at www.ngs.noaa.gov.

The datum conversion locations and values that were calculated for San Juan County are provided in Table 19.

Table 19: Countywide Vertical Datum Conversion
[Not Applicable to this Flood Risk Project]

A countywide conversion factor could not be generated for San Juan County because the maximum variance from average exceeds 0.25 feet. Calculations for the vertical offsets on a stream by stream basis are depicted in Table 20.

Table 20: Stream-Based Vertical Datum Conversion
[Not Applicable to this Flood Risk Project]

6.2 Base Map

The FIRMs and FIS Report for this project have been produced in a digital format. The flood hazard information was converted to a Geographic Information System (GIS) format that meets FEMA's FIRM Database specifications and geographic information standards. This information is provided in a digital format so that it can be incorporated into a local GIS and be accessed more easily by the community. The FIRM Database includes most of the tabular information contained in the FIS Report in such a way that the data can be associated with pertinent spatial features. For example, the information contained in the Floodway Data table and Flood Profiles can be linked to the cross sections that are shown on the FIRMs. Additional information about the FIRM Database and its contents can be found in FEMA's *Guidelines and Standards for Flood Risk Analysis and Mapping*, www.fema.gov/media-library/resources-documents/collections/361.

Base map information shown on the FIRM was derived from the sources described in Table 21.

Table 21: Base Map Sources

Data Type	Data Provider	Data Date	Data Scale	Data Description
Political Boundaries	San Juan County GIS Department	2019	1: 24,000	Municipal and county boundaries
Public Land Survey System (PLSS)	United States Department of Agriculture (USDA)	2016	1: 24,000	PLSS data
Surface Water Features	(USGS) National Hydrology Dataset	2019	1: 24,000	Streams, rivers, and lakes for the county
Transportation Features	Tiger Line Files, Road and Rail Centerlines	2019	1: 24,000	Roads and railroads for the county

6.3 Floodplain and Floodway Delineation

The FIRM shows tints, screens, and symbols to indicate floodplains and floodways as well as the locations of selected cross sections used in the hydraulic analyses and floodway computations.

For riverine flooding sources, the mapped floodplain boundaries shown on the FIRM have been delineated using the flood elevations determined at each cross section; between cross sections, the boundaries were interpolated using the topographic elevation data described in Table 22.

In cases where the 1-percent and 0.2-percent-annual-chance floodplain boundaries are close together, only the 1-percent-annual-chance floodplain boundary has been shown. Small areas within the floodplain boundaries may lie above the flood elevations but cannot be shown due to limitations of the map scale and/or lack of detailed topographic data.

The floodway widths presented in this FIS Report and on the FIRM were computed for certain stream segments on the basis of equal conveyance reduction from each side of

the floodplain. Floodway widths were computed at cross sections. Between cross sections, the floodway boundaries were interpolated. Table 2 indicates the flooding sources for which floodways have been determined. The results of the floodway computations for those flooding sources have been tabulated for selected cross sections and are shown in Table 23, "Floodway Data."

Certain flooding sources may have been studied that do not have published BFEs on the FIRMs, or for which there is a need to report the 1-percent-annual-chance flood elevations at selected cross sections because a published Flood Profile does not exist in this FIS Report. These streams may have also been studied using methods to determine non-encroachment zones rather than floodways. For these flooding sources, the 1-percent-annual-chance floodplain boundaries have been delineated using the flood elevations determined at each cross section; between cross sections, the boundaries were interpolated using the topographic elevation data described in Table . All topographic data used for modeling or mapping has been converted as necessary to NAVD88. The 1-percent-annual-chance elevations for selected cross sections along these flooding sources, along with their non-encroachment widths, if calculated, are shown in Table 24, "Flood Hazard and Non-Encroachment Data for Selected Streams."

Table 22: Summary of Topographic Elevation Data used in Mapping

Community	Flooding Source	Source for Topographic Elevation Data			
		Description	Vertical Accuracy	Horizontal Accuracy	Citation
San Juan County, Unincorporated Areas	All within County	Light Detection and Ranging data (LiDAR)	2 cm	1.5 cm	CWCB NASA 2018

BFEs shown at cross sections on the FIRM represent the 1-percent-annual-chance water surface elevations shown on the Flood Profiles and in the Floodway Data tables in the FIS Report.

Table 23: Floodway Data

LOCATION		FLOODWAY			1% ANNUAL CHANCE FLOOD WATER SURFACE ELEVATION (FEET NAVD88)			
CROSS SECTION	DISTANCE ¹	WIDTH (FEET)	SECTION AREA (SQ. FEET)	MEAN VELOCITY (FEET/SEC)	REGULATORY	WITHOUT FLOODWAY	WITH FLOODWAY	INCREASE
A	395,019	235	651	4.8	9,209.0	9,209.0	9,209.0	0.0
B	397,338	368	654	4.8	9,225.5	9,225.5	9,225.5	0.0
C	399,664	228	692	4.5	9,242.8	9,242.8	9,243.3	0.5
D	401,145	56	254	8.8	9,257.1	9,257.1	9,257.3	0.2
E	402,843	296	405	5.5	9,278.8	9,278.8	9,279.1	0.3
F	404,160	58	243	7.7	9,294.6	9,294.6	9,294.6	0.0
G	405,244	335	360	5.2	9,307.2	9,307.2	9,307.2	0.0
H	406,882	295	412	4.5	9,328.0	9,328.0	9,328.3	0.3
I	407,977	251	346	6.5	9,343.4	9,343.4	9,343.4	0.0
J	409,265	68	242	7.8	9,361.5	9,361.5	9,361.7	0.2
K	410,456	54	210	8.9	9,379.9	9,379.9	9,380.0	0.1
L	411,570	56	189	9.9	9,396.0	9,396.0	9,396.1	0.1
M	412,340	67	276	6.8	9,409.4	9,409.4	9,409.6	0.2

¹ Feet above approximately 150 feet downstream of the Colorado-New Mexico border

TABLE 23

FEDERAL EMERGENCY MANAGEMENT AGENCY

SAN JUAN COUNTY, CO

AND INCORPORATED AREAS

FLOODWAY DATA

FLOODING SOURCE: ANIMAS RIVER

LOCATION		FLOODWAY			1% ANNUAL CHANCE FLOOD WATER SURFACE ELEVATION (FEET NAVD88)			
CROSS SECTION	DISTANCE ¹	WIDTH (FEET)	SECTION AREA (SQ. FEET)	MEAN VELOCITY (FEET/SEC)	REGULATORY	WITHOUT FLOODWAY	WITH FLOODWAY	INCREASE
A	0	86	106	5.9	9,285.1	9,283.1 ²	9,283.1 ²	0.0
B	1,005	25	69	9.1	9,306.5	9,306.5	9,306.5	0.0
C	2,058	28	73	8.5	9,327.8	9,327.8	9,327.8	0.0
D	2,934	21	65	9.7	9,349.2	9,349.2	9,349.3	0.1
E	3,976	32	74	8.4	9,386.2	9,386.2	9,386.2	0.0
F	4,861	26	72	8.7	9,424.5	9,424.5	9,424.6	0.1

¹Feet above confluence with Animas River

²Computed without consideration of backwater effects from Animas River

TABLE 23

FEDERAL EMERGENCY MANAGEMENT AGENCY
SAN JUAN COUNTY, CO
 AND INCORPORATED AREAS

FLOODWAY DATA

FLOODING SOURCE: CEMENT CREEK

LOCATION		FLOODWAY			1% ANNUAL CHANCE FLOOD WATER SURFACE ELEVATION (FEET NAVD88)			
CROSS SECTION	DISTANCE ¹	WIDTH (FEET)	SECTION AREA (SQ. FEET)	MEAN VELOCITY (FEET/SEC)	REGULATORY	WITHOUT FLOODWAY	WITH FLOODWAY	INCREASE
A	622	161	314	5.9	9,242.5	9,242.5	9,242.9	0.4
B	2,294	80	209	8.9	9,265.6	9,265.6	9,265.7	0.1
C	3,070	68	199	9.4	9,276.7	9,276.7	9,277.1	0.4
D	4,256	67	217	8.6	9,297.0	9,297.0	9,297.4	0.4
E	5,841	46	172	10.8	9,325.2	9,325.2	9,325.5	0.3
F	7,925	65	235	7.9	9,371.2	9,371.2	9,371.2	0.0
G	9,738	47	213	8.7	9,396.8	9,396.8	9,396.9	0.1
H	11,391	75	270	6.0	9,419.2	9,419.2	9,419.6	0.4

¹ Feet above confluence with Animas River

TABLE 23

FEDERAL EMERGENCY MANAGEMENT AGENCY

SAN JUAN COUNTY, CO
AND INCORPORATED AREAS

FLOODWAY DATA

FLOODING SOURCE: MINERAL CREEK

Non-encroachment areas may be delineated where it is not possible to delineate floodways because specific channel profiles with bridge and culvert geometry were not developed. Any non-encroachment determinations for this Flood Risk Project have been tabulated for selected cross sections and are shown in Table 24. The non-encroachment width indicates the measured distance left and right (looking downstream) from the mapped center of the stream to the non-encroachment boundary based on a surcharge of 1.0 foot or less.

Table 24: Flood Hazard and Non-Encroachment Data for Selected Streams

[Not Applicable to this Flood Risk Project]

6.4 Coastal Flood Hazard Mapping

This section is not applicable to this Flood Risk Project.

Table 25: Summary of Coastal Transect Mapping Considerations

[Not Applicable to this Flood Risk Project]

6.5 FIRM Revisions

This FIS Report and the FIRM are based on the most up-to-date information available to FEMA at the time of its publication; however, flood hazard conditions change over time. Communities or private parties may request flood map revisions at any time. Certain types of requests require submission of supporting data. FEMA may also initiate a revision. Revisions may take several forms, including Letters of Map Amendment (LOMAs), Letters of Map Revision Based on Fill (LOMR-Fs), Letters of Map Revision (LOMRs) (referred to collectively as Letters of Map Change (LOMCs)), Physical Map Revisions (PMRs), and FEMA-contracted restudies. These types of revisions are further described below. Some of these types of revisions do not result in the republishing of the FIS Report. To assure that any user is aware of all revisions, it is advisable to contact the community repository of flood-hazard data (shown in Table , "Map Repositories").

6.5.1 Letters of Map Amendment

A LOMA is an official revision by letter to an effective NFIP map. A LOMA results from an administrative process that involves the review of scientific or technical data submitted by the owner or lessee of property who believes the property has incorrectly been included in a designated SFHA. A LOMA amends the currently effective FEMA map and establishes that a specific property is not located in a SFHA.

To obtain an application for a LOMA, visit www.fema.gov/letter-map-amendment-loma and download the form "MT-1 Application Forms and Instructions for Conditional and Final Letters of Map Amendment and Letters of Map Revision Based on Fill". Visit the "Flood Map-Related Fees" section to determine the cost, if any, of applying for a LOMA.

FEMA offers a tutorial on how to apply for a LOMA. The LOMA Tutorial Series can be accessed at www.fema.gov/online-tutorials.

For more information about how to apply for a LOMA, call the FEMA Map Information eXchange; toll free, at 1-877-FEMA MAP (1-877-336-2627).

6.5.2 Letters of Map Revision Based on Fill

A LOMR-F is an official revision by letter to an effective NFIP map. A LOMR-F states FEMA's determination concerning whether a structure or parcel has been elevated on fill above the base flood elevation and is, therefore, excluded from the SFHA.

Information about obtaining an application for a LOMR-F can be obtained in the same manner as that for a LOMA, by visiting www.fema.gov/letter-map-amendment-loma for the "MT-1 Application Forms and Instructions for Conditional and Final Letters of Map Amendment and Letters of Map Revision Based on Fill" or by calling the FEMA Map Information eXchange, toll free, at 1-877-FEMA MAP (1-877-336-2627). Fees for applying for a LOMR-F, if any, are listed in the "Flood Map-Related Fees" section.

A tutorial for LOMR-F is available at www.fema.gov/online-tutorials.

6.5.3 Letters of Map Revision

A LOMR is an official revision to the currently effective FEMA map. It is used to change flood zones, floodplain and floodway delineations, flood elevations and planimetric features. All requests for LOMRs should be made to FEMA through the chief executive officer of the community, since it is the community that must adopt any changes and revisions to the map. If the request for a LOMR is not submitted through the chief executive officer of the community, evidence must be submitted that the community has been notified of the request.

To obtain an application for a LOMR, visit www.fema.gov/media-library/assets/documents/1343 and download the form "MT-2 Application Forms and Instructions for Conditional Letters of Map Revision and Letters of Map Revision". Visit the "Flood Map-Related Fees" section to determine the cost of applying for a LOMR. For more information about how to apply for a LOMR, call the FEMA Map Information eXchange; toll free, at 1-877-FEMA MAP (1-877-336-2627) to speak to a Map Specialist.

Previously issued mappable LOMCs (including LOMRs) that have been incorporated into the San Juan County FIRM are listed in Table 26. Please note that this table only includes LOMCs that have been issued on the FIRM panels updated by this map revision. For all other areas within this county, users should be aware that revisions to the FIS Report made by prior LOMRs may not be reflected herein and users will need to continue to use the previously issued LOMRs to obtain the most current data.

Table 26: Incorporated Letters of Map Change
[Not Applicable to this Flood Risk Project]

6.5.4 Physical Map Revisions

A Physical Map Revisions (PMR) is an official republication of a community's NFIP map to effect changes to base flood elevations, floodplain boundary delineations, regulatory floodways and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas or correction to base flood elevations or SFHAs.

The community's chief executive officer must submit scientific and technical data to FEMA to support the request for a PMR. The data will be analyzed and the map will be

revised if warranted. The community is provided with copies of the revised information and is afforded a review period. When the base flood elevations are changed, a 90-day appeal period is provided. A 6-month adoption period for formal approval of the revised map(s) is also provided.

For more information about the PMR process, please visit www.fema.gov and visit the "Flood Map Revision Processes" section.

6.5.5 Contracted Restudies

The NFIP provides for a periodic review and restudy of flood hazards within a given community. FEMA accomplishes this through a national watershed-based mapping needs assessment strategy, known as the Coordinated Needs Management Strategy (CNMS). The CNMS is used by FEMA to assign priorities and allocate funding for new flood hazard analyses used to update the FIS Report and FIRM. The goal of CNMS is to define the validity of the engineering study data within a mapped inventory. The CNMS is used to track the assessment process, document engineering gaps and their resolution, and aid in prioritization for using flood risk as a key factor for areas identified for flood map updates. Visit www.fema.gov to learn more about the CNMS or contact the FEMA Regional Office listed in Section 8 of this FIS Report.

6.5.6 Community Map History

The current FIRM presents flooding information for the entire geographic area of San Juan County. Previously, separate FIRMs, Flood Hazard Boundary Maps (FHBM) and/or Flood Boundary and Floodway Maps (FBFMs) may have been prepared for the incorporated communities and the unincorporated areas in the county that had identified SFHAs. Current and historical data relating to the maps prepared for the project area are presented in Table , "Community Map History." A description of each of the column headings and the source of the date is also listed below.

- *Community Name* includes communities falling within the geographic area shown on the FIRM, including those that fall on the boundary line, nonparticipating communities, and communities with maps that have been rescinded. Communities with No Special Flood Hazards are indicated by a footnote. If all maps (FHBM, FBFM, and FIRM) were rescinded for a community, it is not listed in this table unless SFHAs have been identified in this community.
- *Initial Identification Date (First NFIP Map Published)* is the date of the first NFIP map that identified flood hazards in the community. If the FHBM has been converted to a FIRM, the initial FHBM date is shown. If the community has never been mapped, the upcoming effective date or "pending" (for Preliminary FIS Reports) is shown. If the community is listed in Table 7 but not identified on the map, the community is treated as if it were unmapped.
- *Initial FHBM Effective Date* is the effective date of the first FHBM. This date may be the same date as the Initial NFIP Map Date.
- *FHBM Revision Date(s)* is the date(s) that the FHBM was revised, if applicable.
- *Initial FIRM Effective Date* is the date of the first effective FIRM for the community.

- *FIRM Revision Date(s)* is the date(s) the FIRM was revised, if applicable. This is the revised date that is shown on the FIRM panel, if applicable. As countywide studies are completed or revised, each community listed should have its FIRM dates updated accordingly to reflect the date of the countywide study. Once the FIRMs exist in countywide format, as PMRs of FIRM panels within the county are completed, the FIRM Revision Dates in the table for each community affected by the PMR are updated with the date of the PMR, even if the PMR did not revise all the panels within that community.

The initial effective date for the San Juan County FIRMs in countywide format was May 9, 2023.

Table 27: Community Map History

Community Name	Initial Identification Date	Initial FHBM Effective Date	FHBM Revision Date(s)	Initial FIRM Effective Date	FIRM Revision Date(s)
San Juan County, Unincorporated Areas	9/1/1978	N/A	N/A	9/1/1978	5/9/2023
Silverton, Town of	6/14/1974	6/14/1974	5/28/1976	9/1/1978	5/9/2023

SECTION 7.0 – CONTRACTED STUDIES AND COMMUNITY COORDINATION

7.1 Contracted Studies

Table 28 provides a summary of the contracted studies, by flooding source, that are included in this FIS Report.

Table 28: Summary of Contracted Studies Included in this FIS Report

Flooding Source	FIS Report Dated	Contractor	Number	Work Completed Date	Affected Communities
Animas River and Tributaries	5/9/2023	AECOM	CT 2018-2357	4/3/2020	San Juan County, Unincorporated Areas

7.2 Community Meetings

The dates of the community meetings held for this Flood Risk Project and previous Flood Risk Projects are shown in Table 29. These meetings may have previously been referred to by a variety of names (Community Coordination Officer (CCO), Scoping, Discovery, etc.), but all meetings represent opportunities for FEMA, community officials, study contractors, and other invited guests to discuss the planning for and results of the project.

Table 29: Community Meetings

Community	FIS Report Dated	Date of Meeting	Meeting Type	Attended By
San Juan County, Unincorporated Areas	5/9/2023	8/6/2020	Resilience	FEMA, the community, and the study contractor
		3/18/2021	Final CCO	FEMA, the community, and the study contractor
Silverton, Town of	5/9/2023	8/6/2019	Flood Risk Review	FEMA, the community, and the study contractor
		3/18/2021	Final CCO	FEMA, the community, and the study contractor

SECTION 8.0 – ADDITIONAL INFORMATION

Information concerning the pertinent data used in the preparation of this FIS Report can be obtained by submitting an order with any required payment to the FEMA Engineering Library. For more information on this process, see www.fema.gov.

Table 30 is a list of the locations where FIRMs for San Juan County can be viewed. Please note that the maps at these locations are for reference only and are not for distribution. Also, please note that only the maps for the community listed in the table are available at that particular repository. A user may need to visit another repository to view maps from an adjacent community.

Table 30: Map Repositories

Community	Address	City	State	Zip Code
San Juan County, Unincorporated Areas	San Juan County Courthouse 1557 Greene Street	Silverton	CO	81433
Silverton, Town of	Town Hall 1360 Greene Street	Silverton	CO	81433

The National Flood Hazard Layer (NFHL) dataset is a compilation of effective FIRM Databases and LOMCs. Together they create a GIS data layer for a State or Territory. The NFHL is updated as studies become effective and extracts are made available to the public monthly. NFHL data can be viewed or ordered from the website shown in Table 31.

Table 31 contains useful contact information regarding the FIS Report, the FIRM, and other relevant flood hazard and GIS data. In addition, information about the State NFIP Coordinator and GIS Coordinator is shown in this table. At the request of FEMA, each Governor has designated an agency of State or territorial government to coordinate that State's or territory's NFIP activities. These agencies often assist communities in developing and adopting necessary floodplain management measures. State GIS Coordinators are knowledgeable about the availability and location of State and local GIS data in their state.

Table 31: Additional Information

FEMA and the NFIP	
FEMA and FEMA Engineering Library website	www.fema.gov/national-flood-insurance-program-flood-hazard-mapping/engineering-library
NFIP website	www.fema.gov/national-flood-insurance-program
NFHL Dataset	msc.fema.gov
FEMA Region VIII	Denver Federal Center, Building 710 P.O. Box 25267 Denver, CO 80255-0267 (303) 235-4812

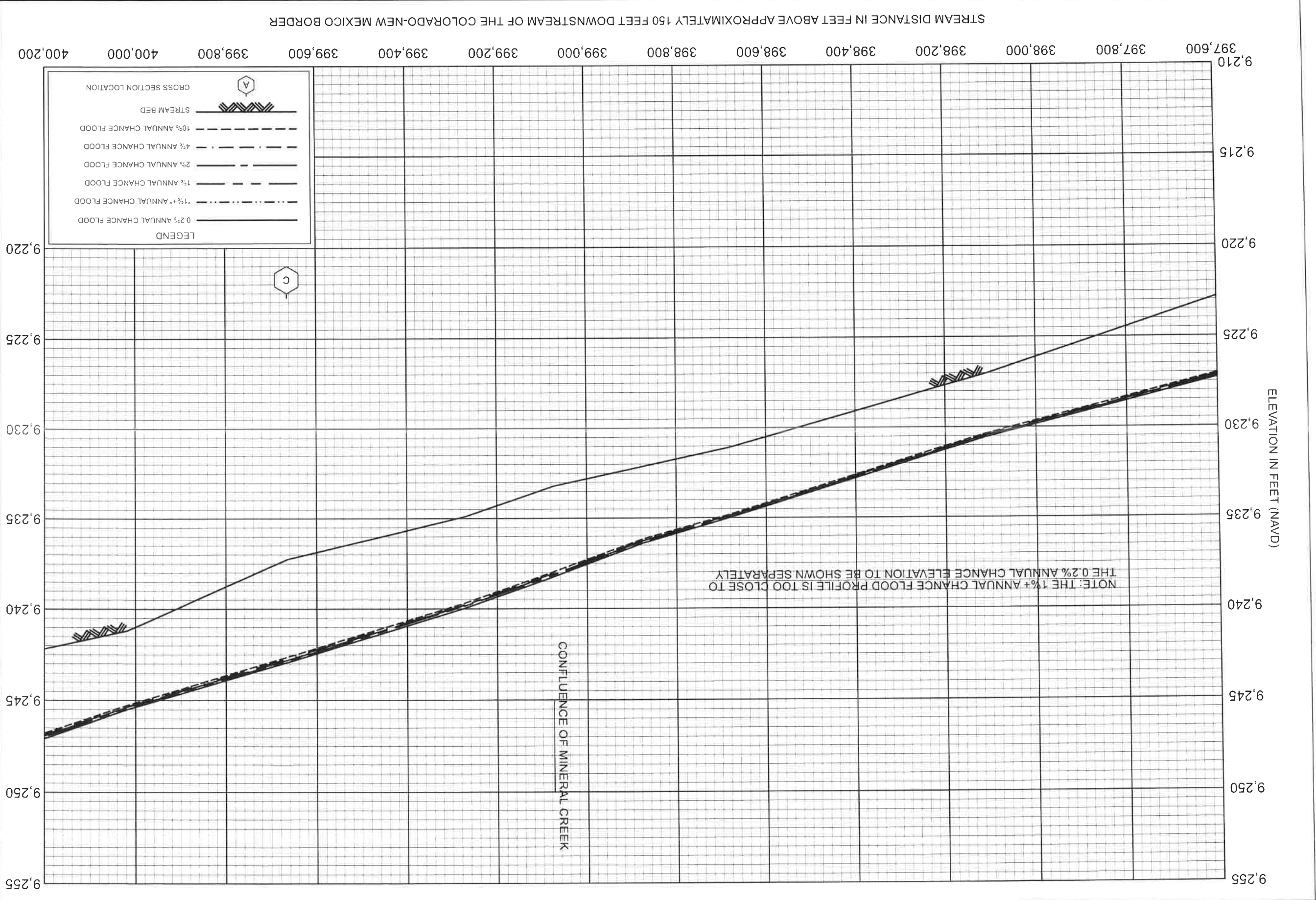
Other Federal Agencies	
USGS website	www.usgs.gov
Hydraulic Engineering Center website	www.hec.usace.army.mil
State Agencies and Organizations	
State NFIP Coordinator	Doug Mahan, CFM CWCB Community Assistance Program Coordinator 1313 Sherman Street, Rm. 718 Denver, CO 80203 (303) 866-3441 x3221 doug.mahan@state.co.us
State GIS Coordinator	Jon Gottsegen Statewide GIS Coordinator 601 E. 18 th Ave Denver, CO 80203 Phone: (303) 764-7712 jon.gottsegen@state.co.us

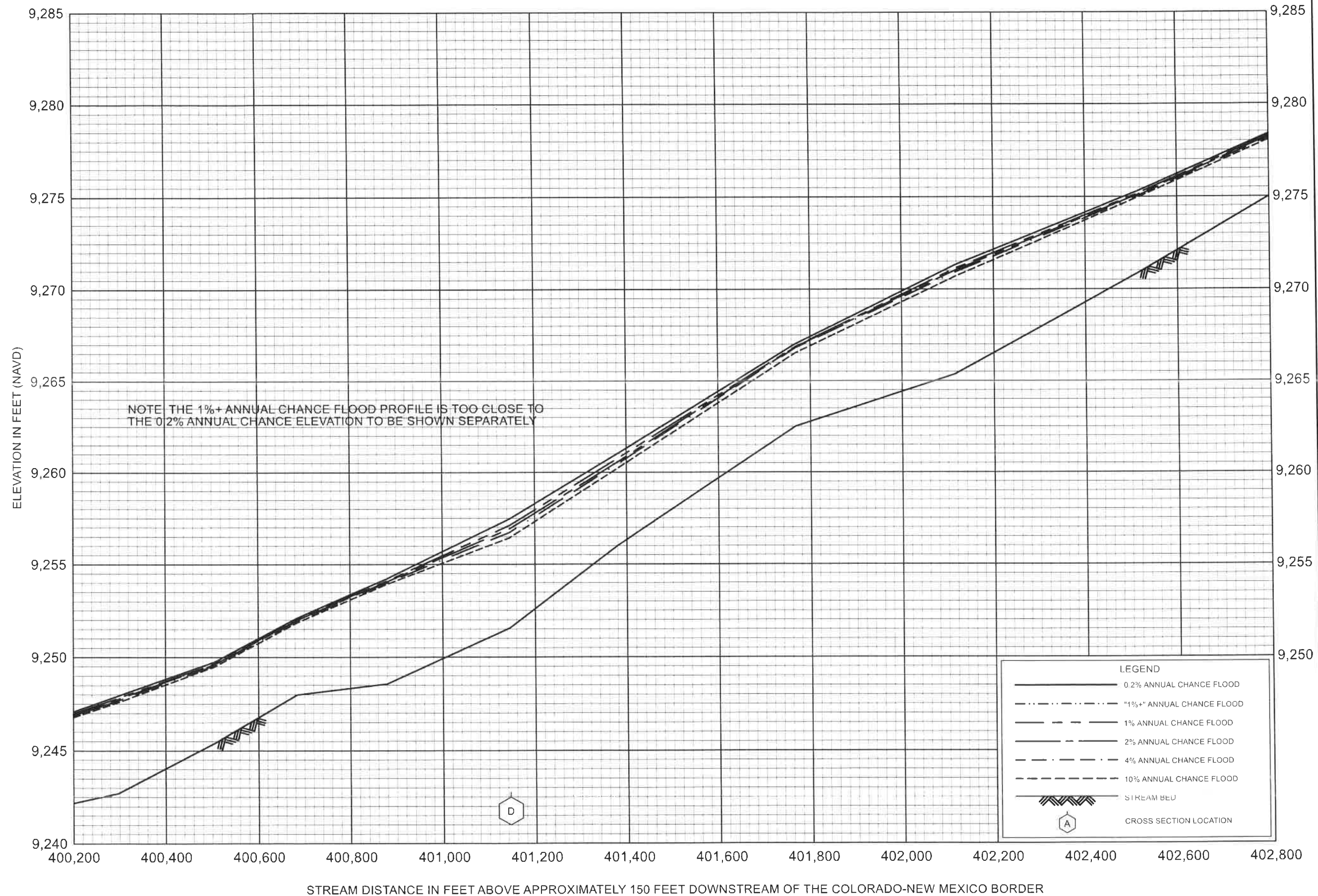
SECTION 9.0 – BIBLIOGRAPHY AND REFERENCES

Table 32 includes sources used in the preparation of and cited in this FIS Report as well as additional studies that have been conducted in the study area.

Table 32: Bibliography and References

Citation in this FIS	Publisher/ Issuer	Publication Title, "Article," Volume, Number, etc.	Author/Editor	Place of Publication	Publication Date/ Date of Issuance	Link
USDA 2019	U.S. Department of Agriculture	<i>Public Land Survey System</i>	USDA	Washington, D.C.	1/1/2016	
CWCB 2019	Colorado Water Conservation Board	<i>Hydrology, Hydraulics, and Floodplain Mapping submitted for San Juan Co</i>	CWCB	Denver, CO	October 2019	http://www.coloradohazardmapping.com/riskMap/animations/Documents
USCB 2016	U.S. Census Bureau	<i>TIGER/Line Shapefile, 2016</i>	USCB	Washington, D.C.	6/1/2019	
CWCB 2018	NASA Re-Process, Colorado Priority Sites LiDAR	<i>Light Detection and Ranging data(LiDAR)</i>	USGS	Washington, D.C.	2018	
USGS 2017	U.S. Geologic Survey	<i>National Hydrography Dataset (NHD)</i>	USGS	Reston, VA	10/17/2019	



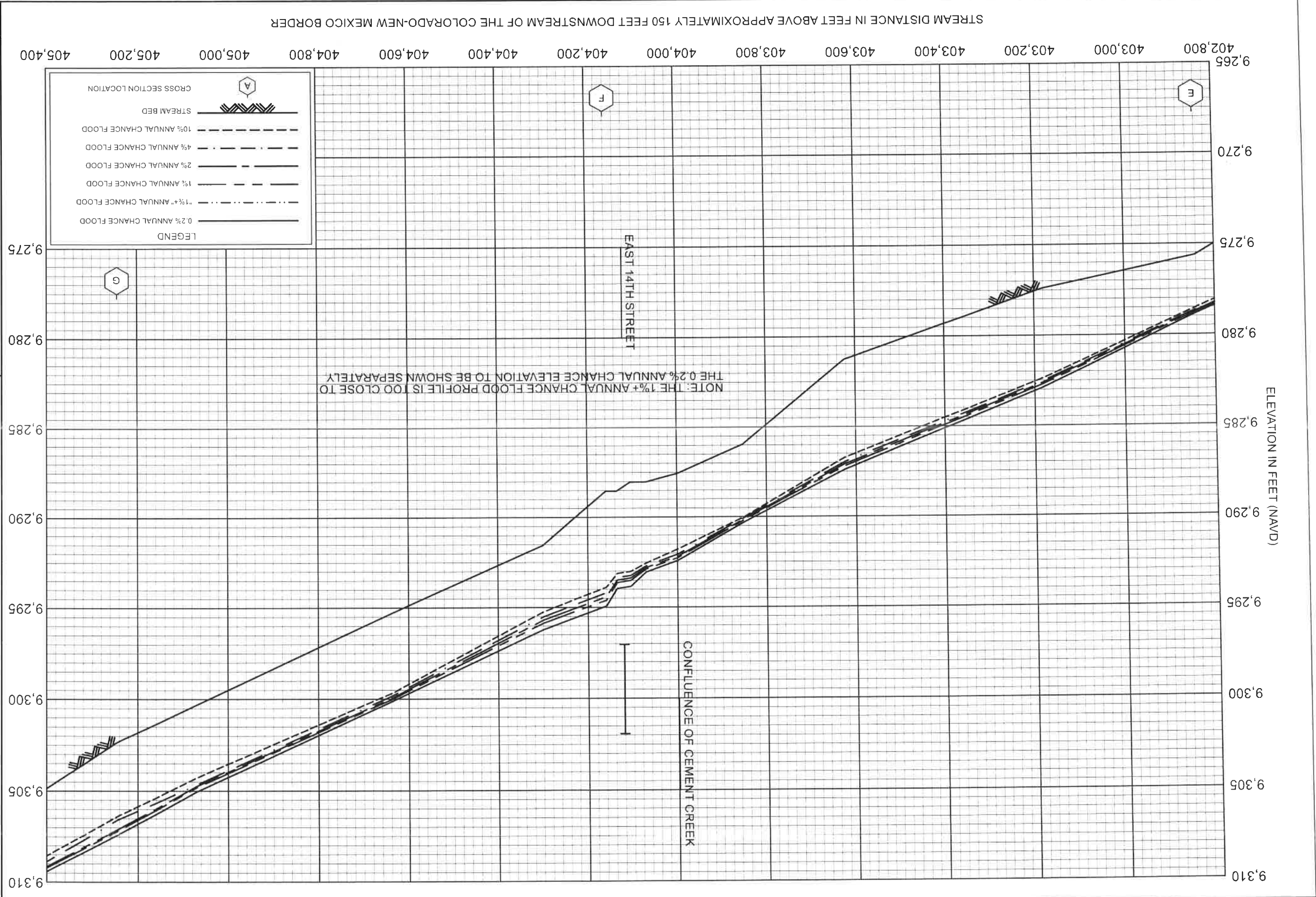


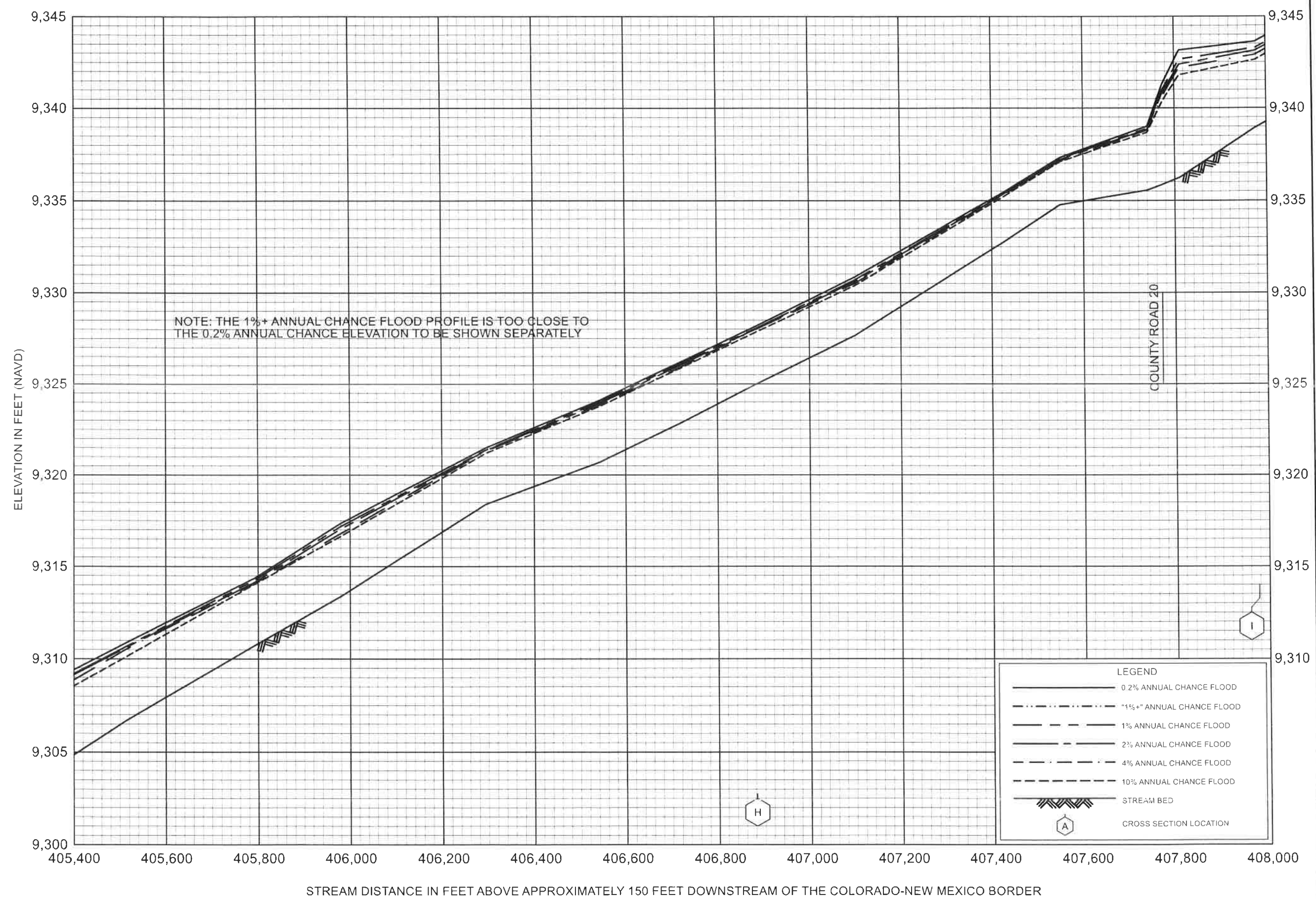
FLOOD PROFILES

ANIMAS RIVER

FEDERAL EMERGENCY MANAGEMENT AGENCY

SAN JUAN COUNTY, CO
AND INCORPORATED AREAS



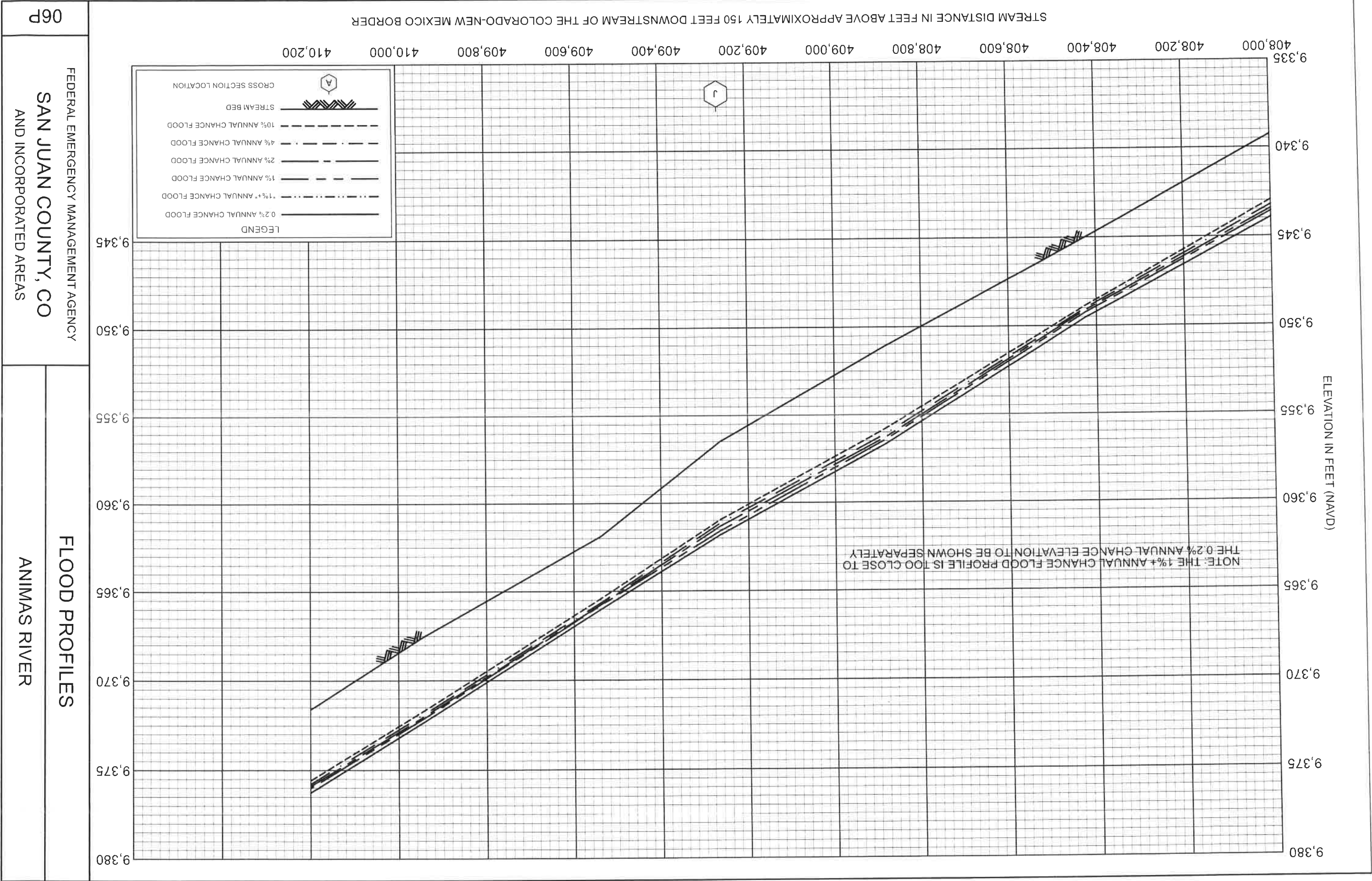


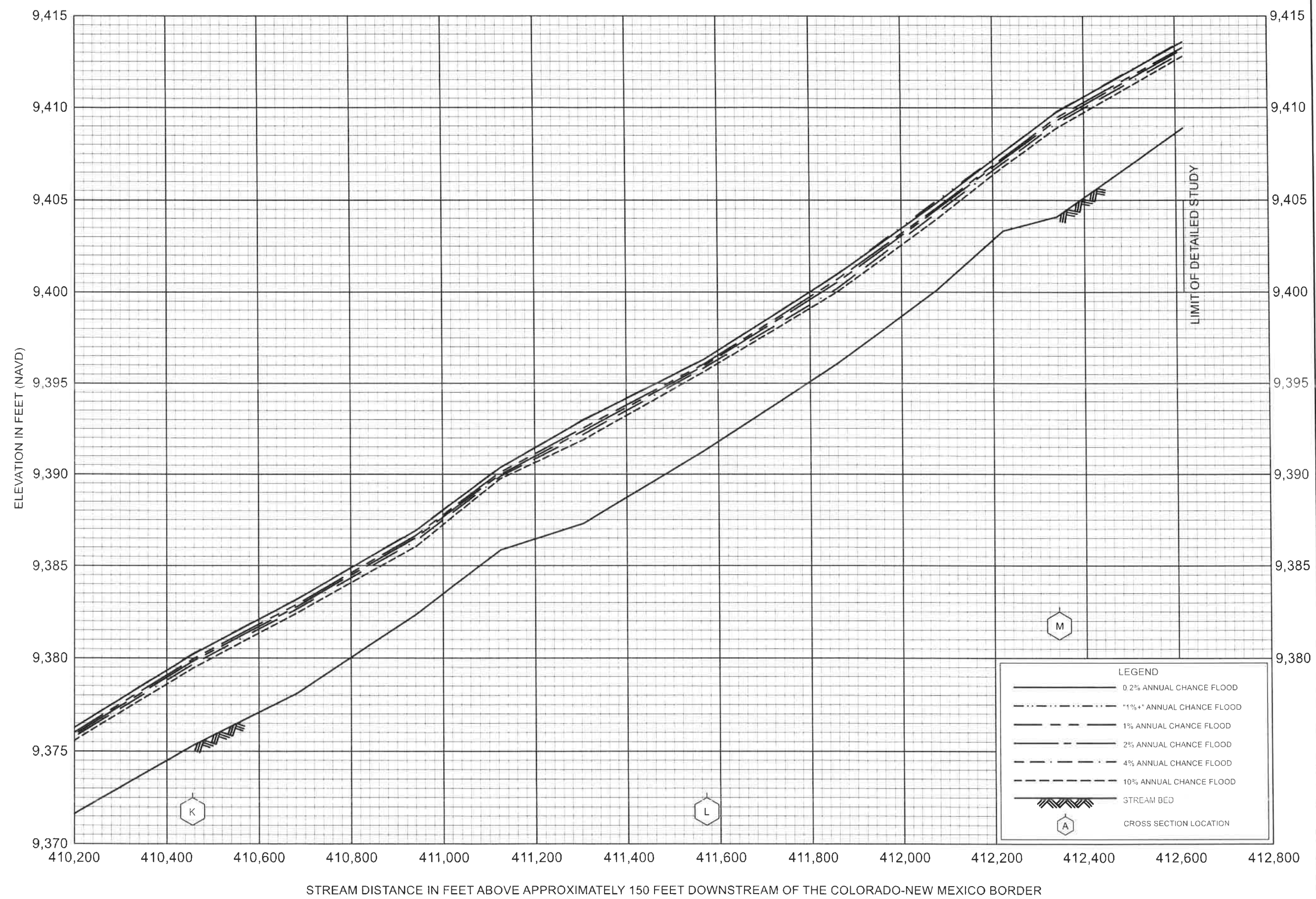
FLOOD PROFILES

ANIMAS RIVER

FEDERAL EMERGENCY MANAGEMENT AGENCY

SAN JUAN COUNTY, CO
AND INCORPORATED AREAS



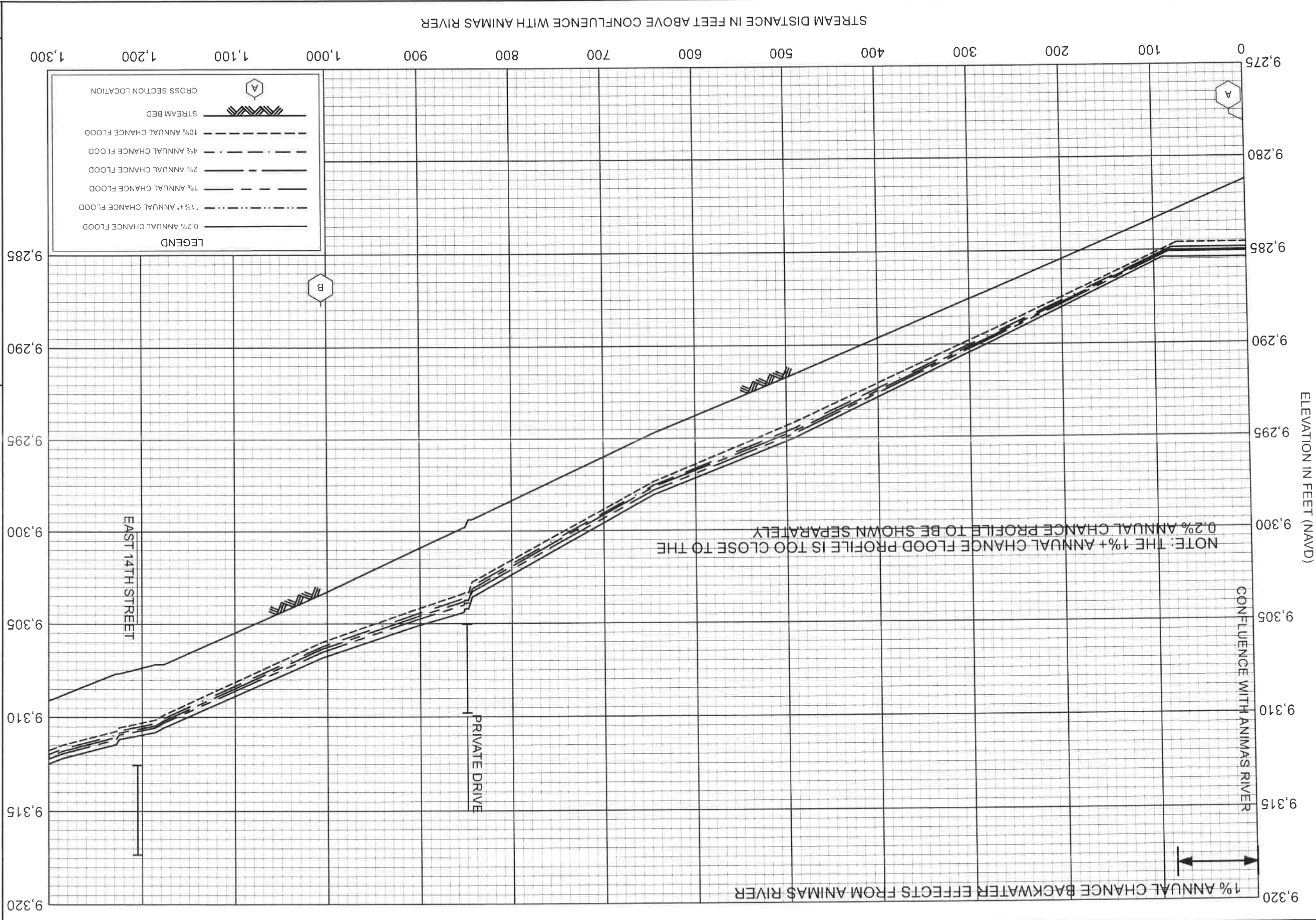


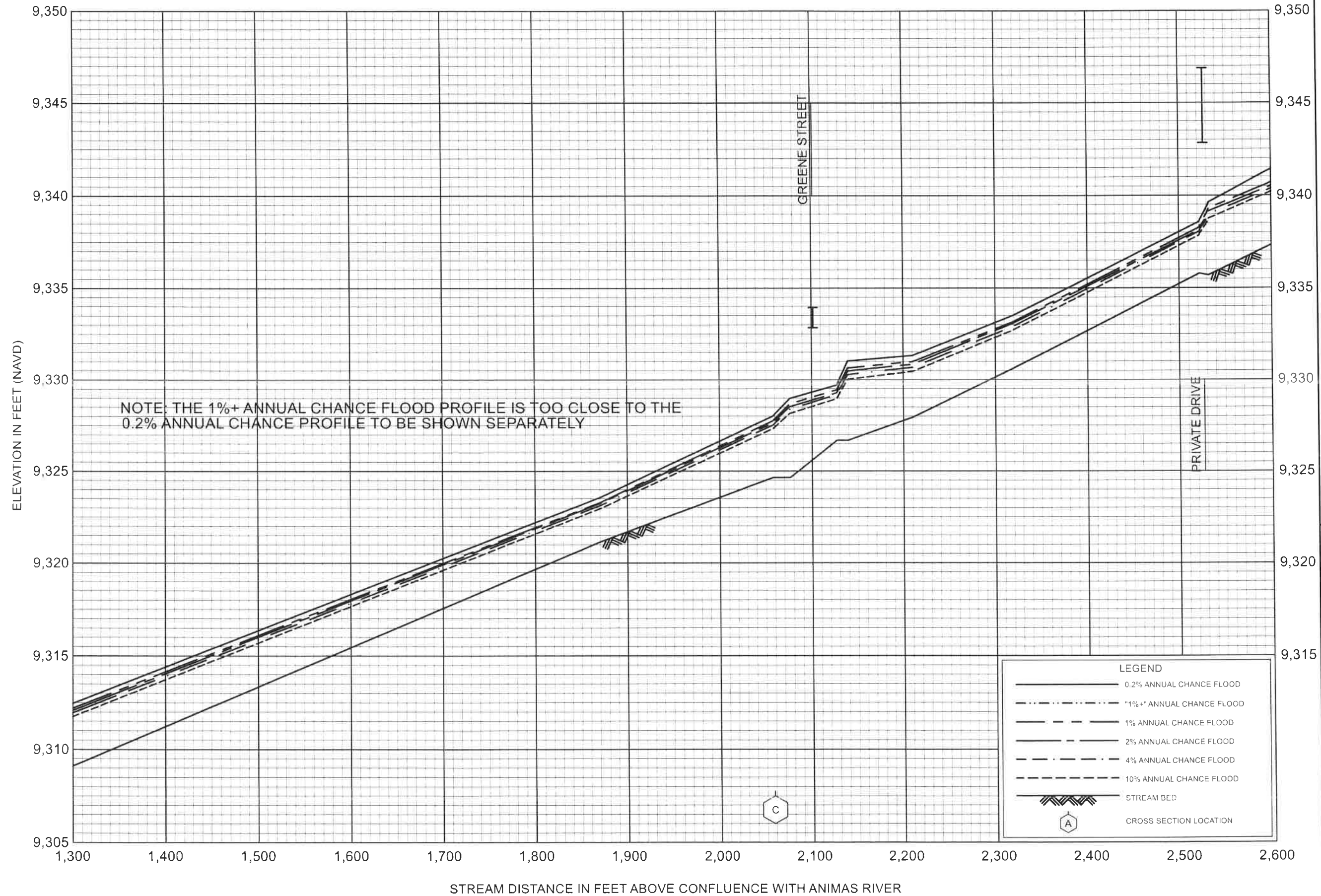
FLOOD PROFILES

ANIMAS RIVER

FEDERAL EMERGENCY MANAGEMENT AGENCY

SAN JUAN COUNTY, CO
AND INCORPORATED AREAS



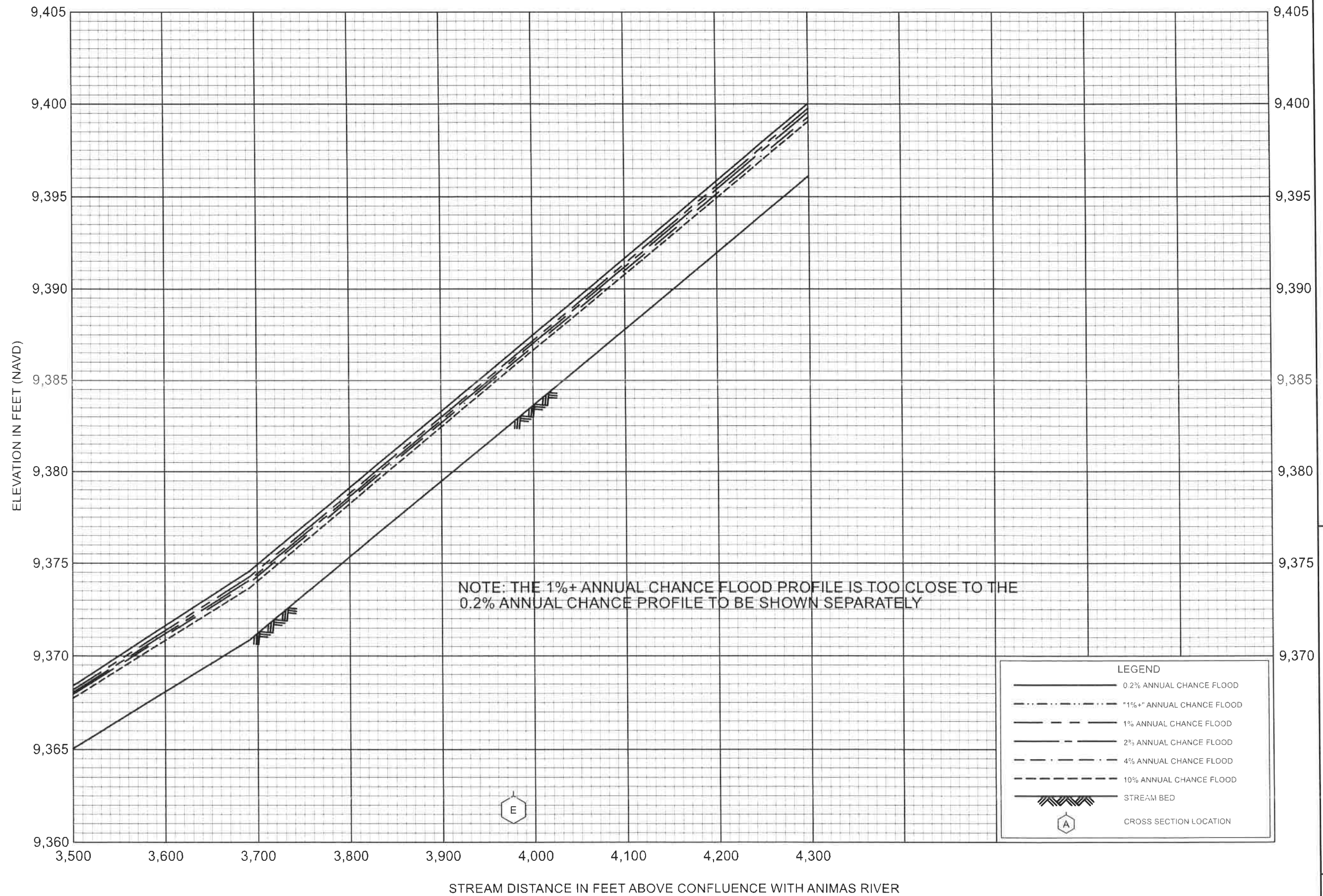


FLOOD PROFILES

CEMENT CREEK

FEDERAL EMERGENCY MANAGEMENT AGENCY

SAN JUAN COUNTY, CO
AND INCORPORATED AREAS

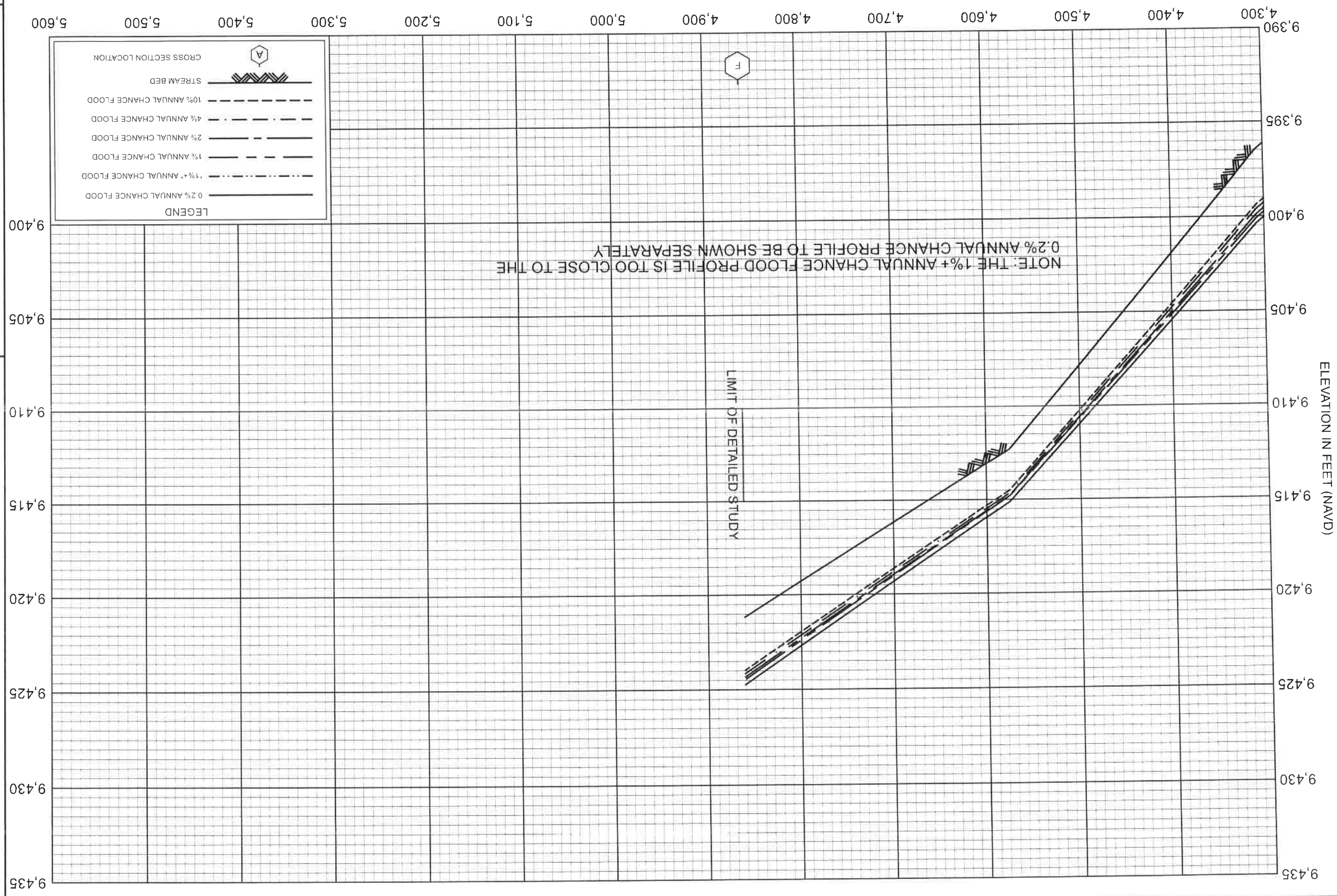


FLOOD PROFILES

CEMENT CREEK

FEDERAL EMERGENCY MANAGEMENT AGENCY

SAN JUAN COUNTY, CO
AND INCORPORATED AREAS



LIMIT OF DETAILED STUDY

NOTE: THE 1%+ ANNUAL CHANCE FLOOD PROFILE IS TOO CLOSE TO THE 0.2% ANNUAL CHANCE FLOOD PROFILE TO BE SHOWN SEPARATELY

CROSS SE

CROSS SECTION LOCATION

STREAM BED

----- 10% ANNUAL CHANCE FLOOD

4% ANNUAL CHANCE FLOOD

2% ANNUAL CHANCE FLOOD

1% ANNUAL CHANCE FLOOD

-1%+ ANNUAL CHANGE FLOO

0.2% ANILINE ORANGE 1.000

LEGEND

FEDERAL EMERGENCY MANAGEMENT AGENCY

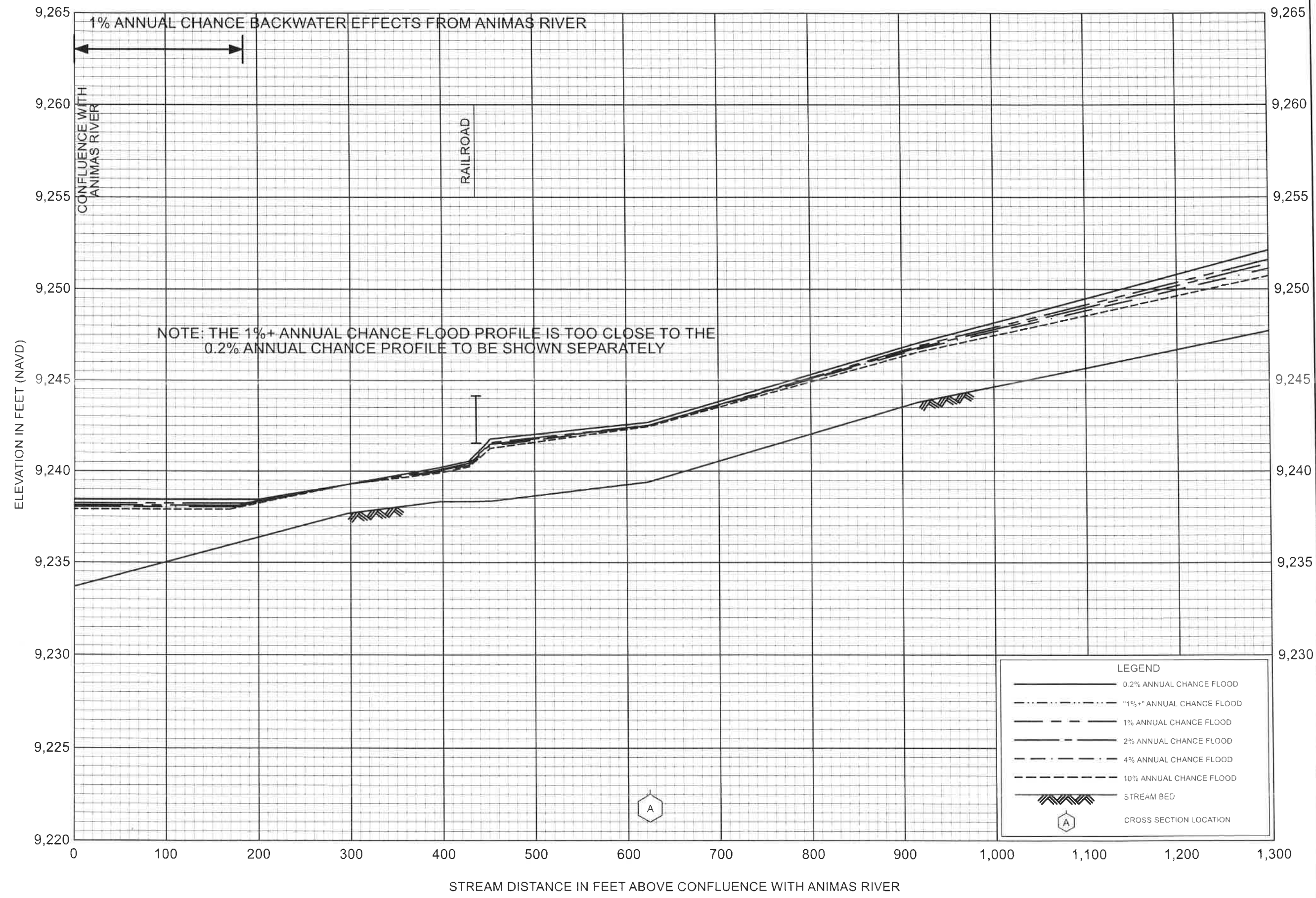
SAN JUAN COUNTY, CO

AND INCORPORATED AREAS

FLOOD PROFILES

CEMENT CREEK

12P

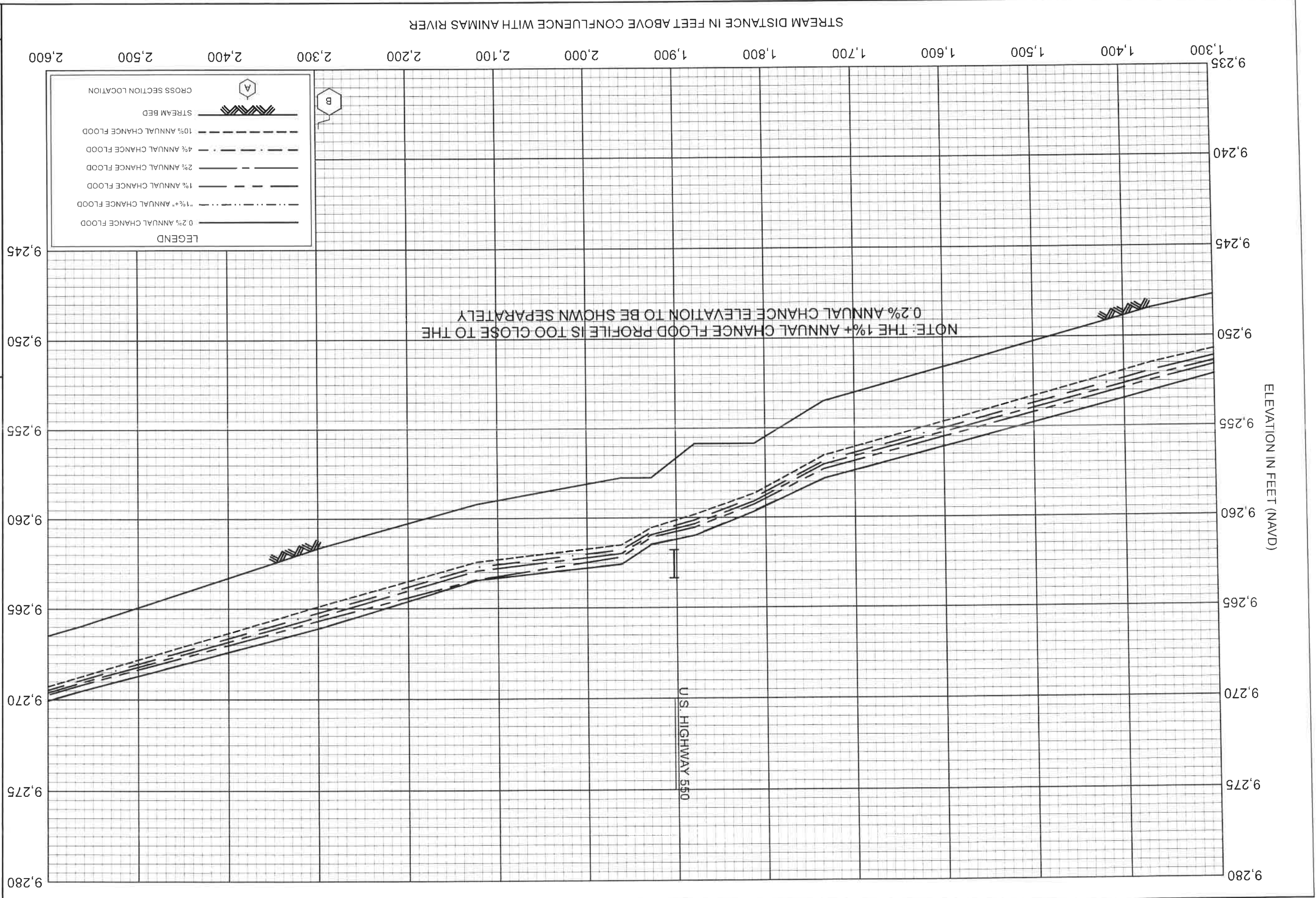


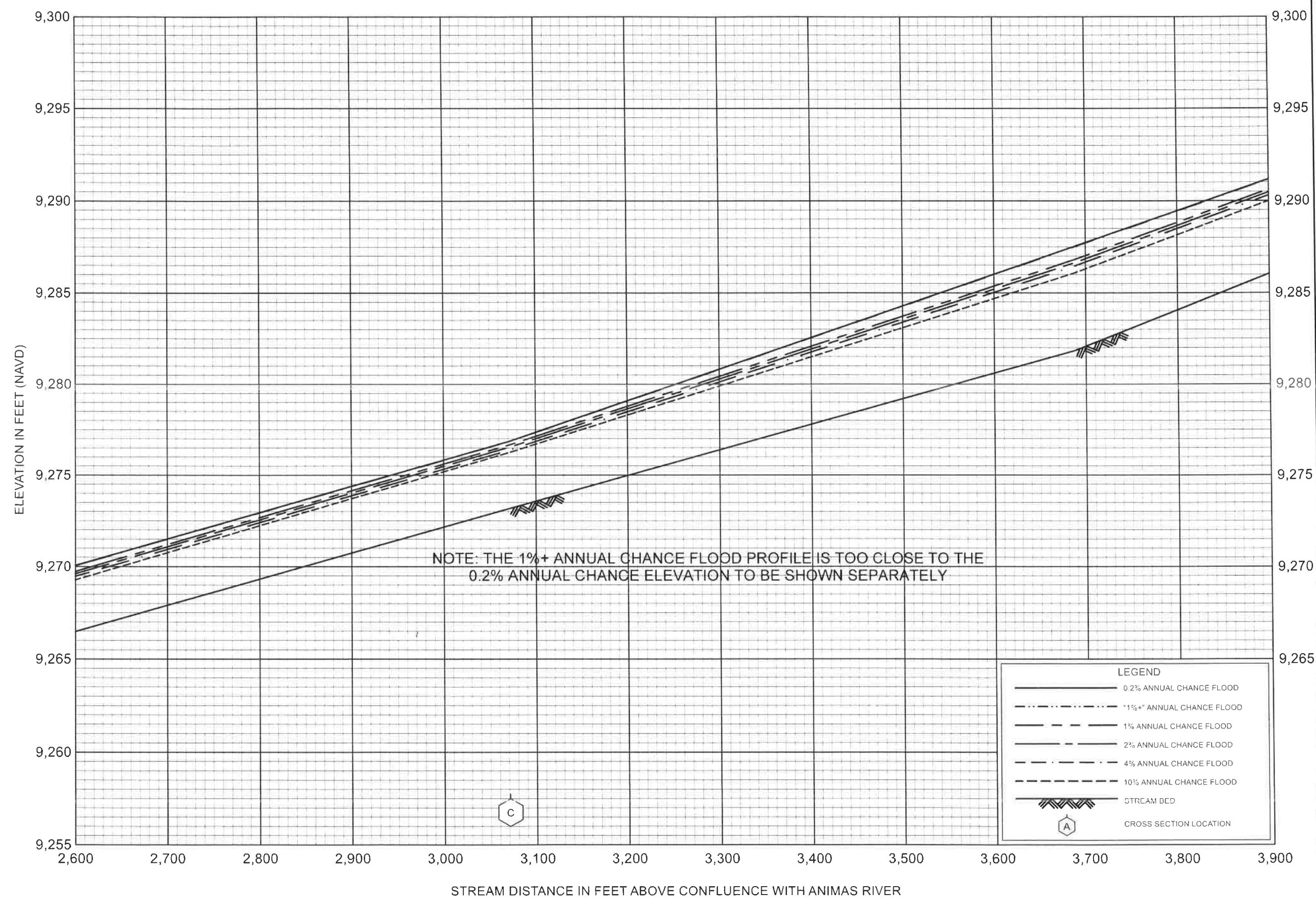
FLOOD PROFILES

MINERAL CREEK

FEDERAL EMERGENCY MANAGEMENT AGENCY

SAN JUAN COUNTY, CO
AND INCORPORATED AREAS

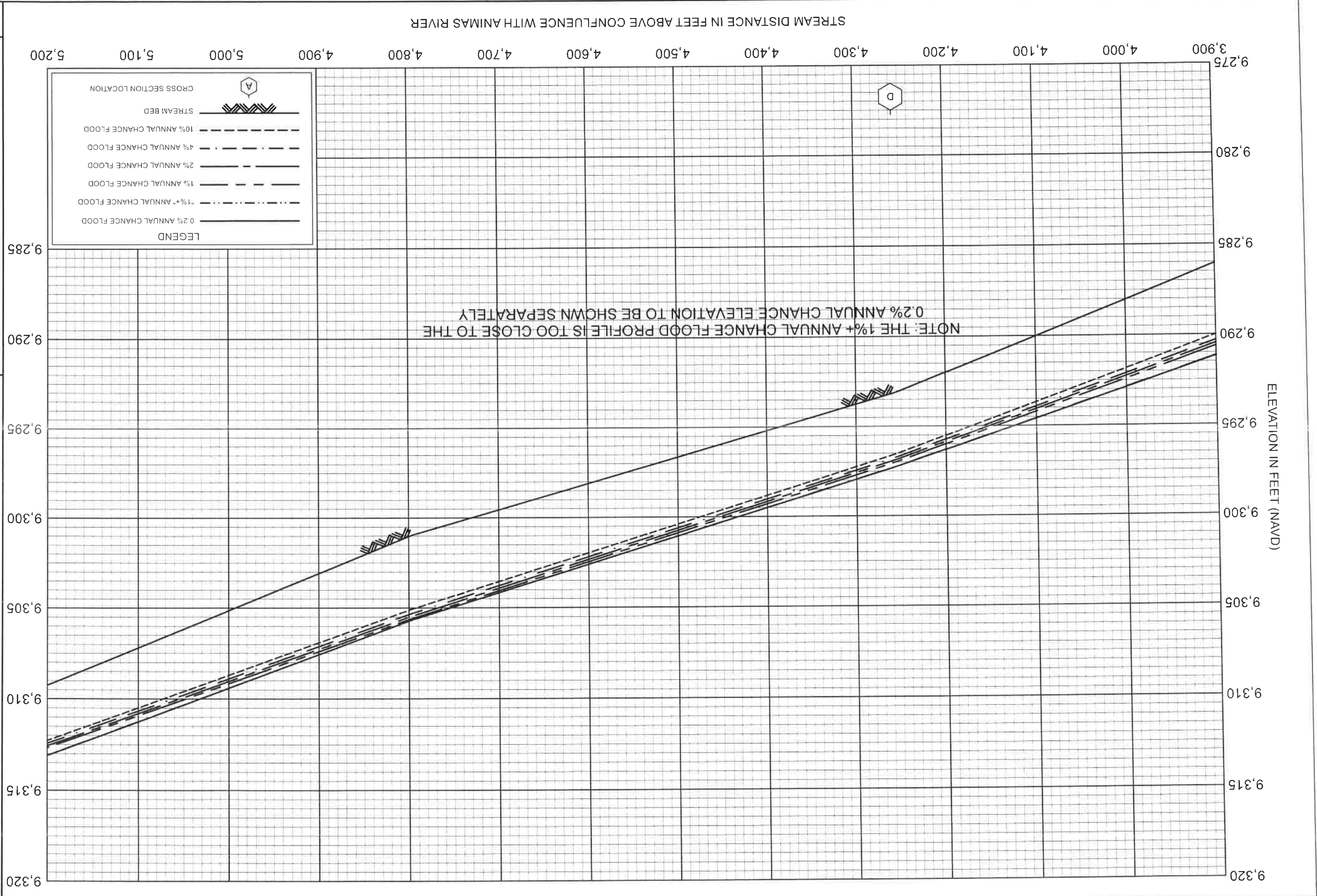


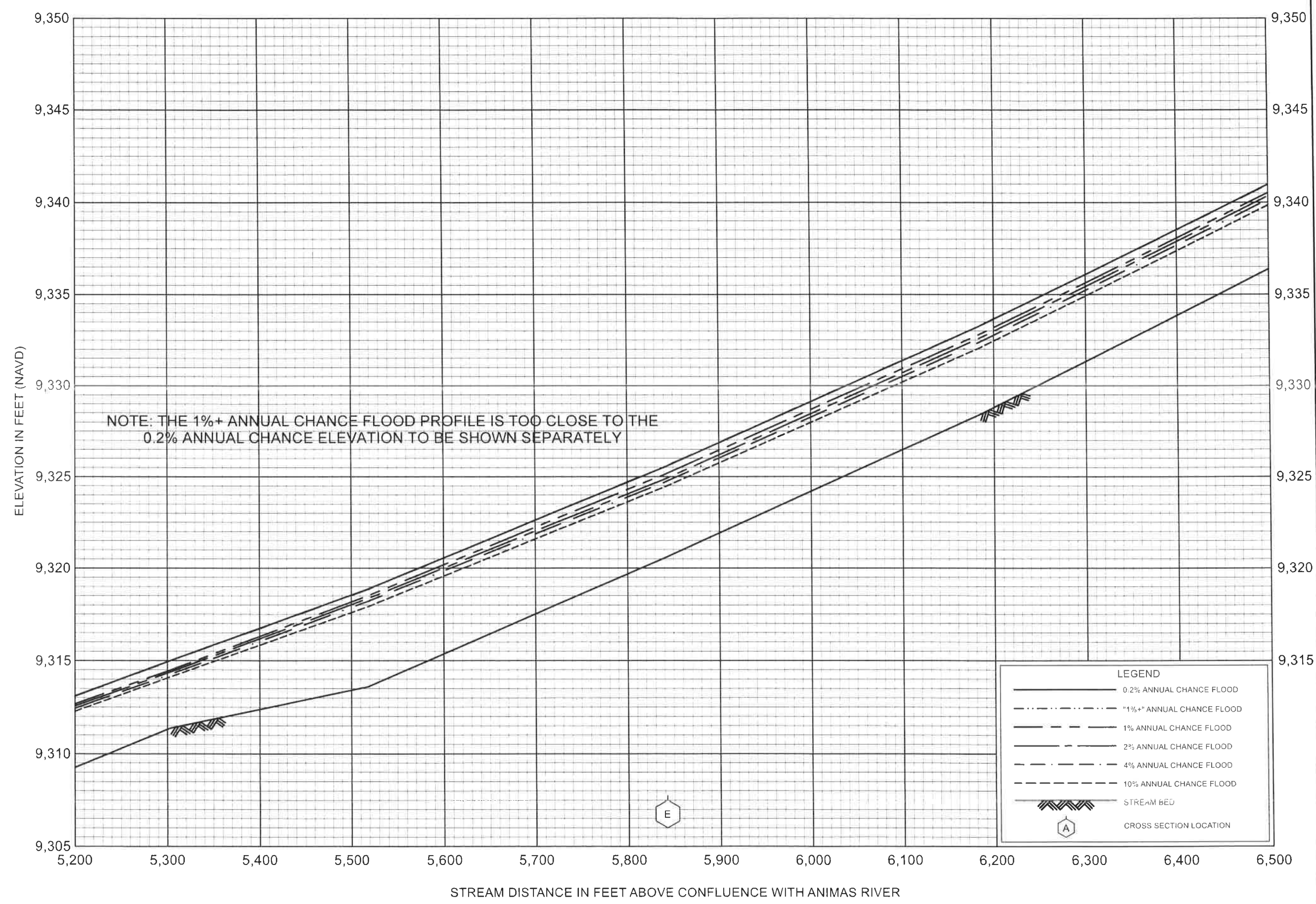


FLOOD PROFILES

MINERAL CREEK

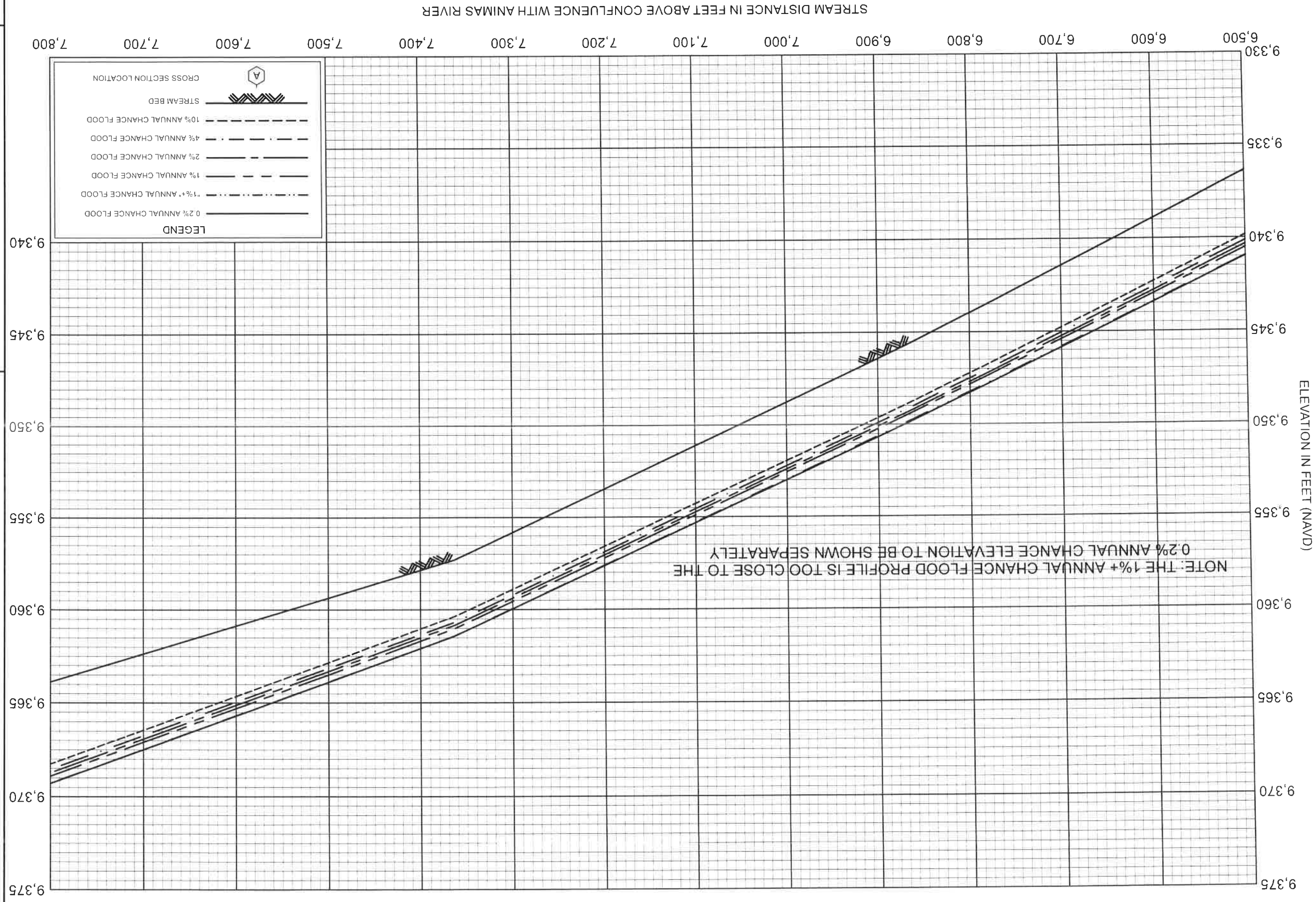
FEDERAL EMERGENCY MANAGEMENT AGENCY
SAN JUAN COUNTY, CO
AND INCORPORATED AREAS





FLOOD PROFILES
MINERAL CREEK

FEDERAL EMERGENCY MANAGEMENT AGENCY
SAN JUAN COUNTY, CO
AND INCORPORATED AREAS



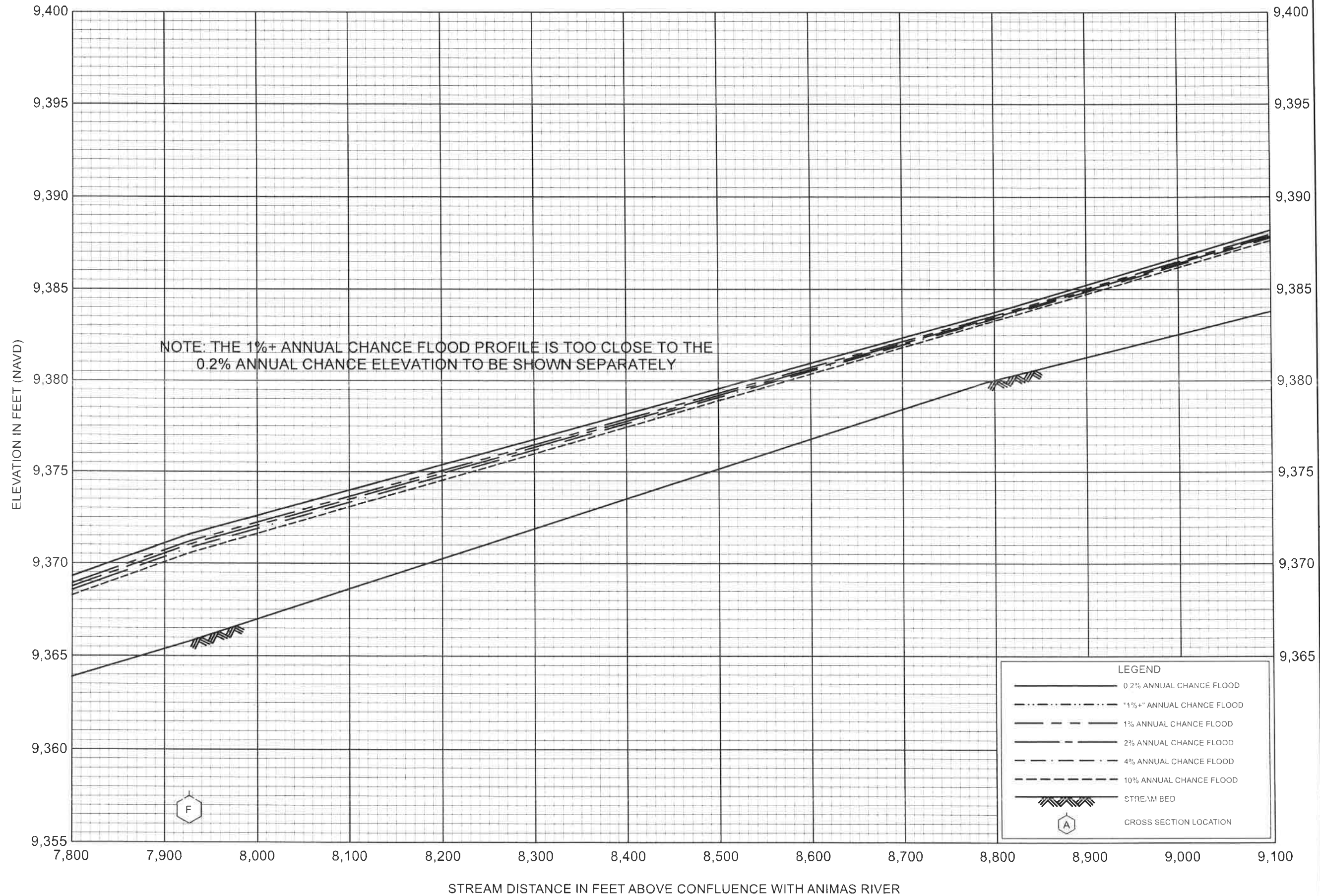
NOTE: THE 1%+ ANNUAL CHANGE FLOOD PROFILE IS TOO CLOSE TO THE 0.2% ANNUAL CHANGE ELEVATION TO BE SHOWN SEPARATELY

STREAM DISTANCE IN FEET ABOVE CONFLUENCE WITH ANIMAS RIVER

18P

GENERAL EMERGENCY MANAGEMENT AGENCY
SAN JUAN COUNTY, CO
AND INCORPORATED AREAS

FLOOD PROFILES

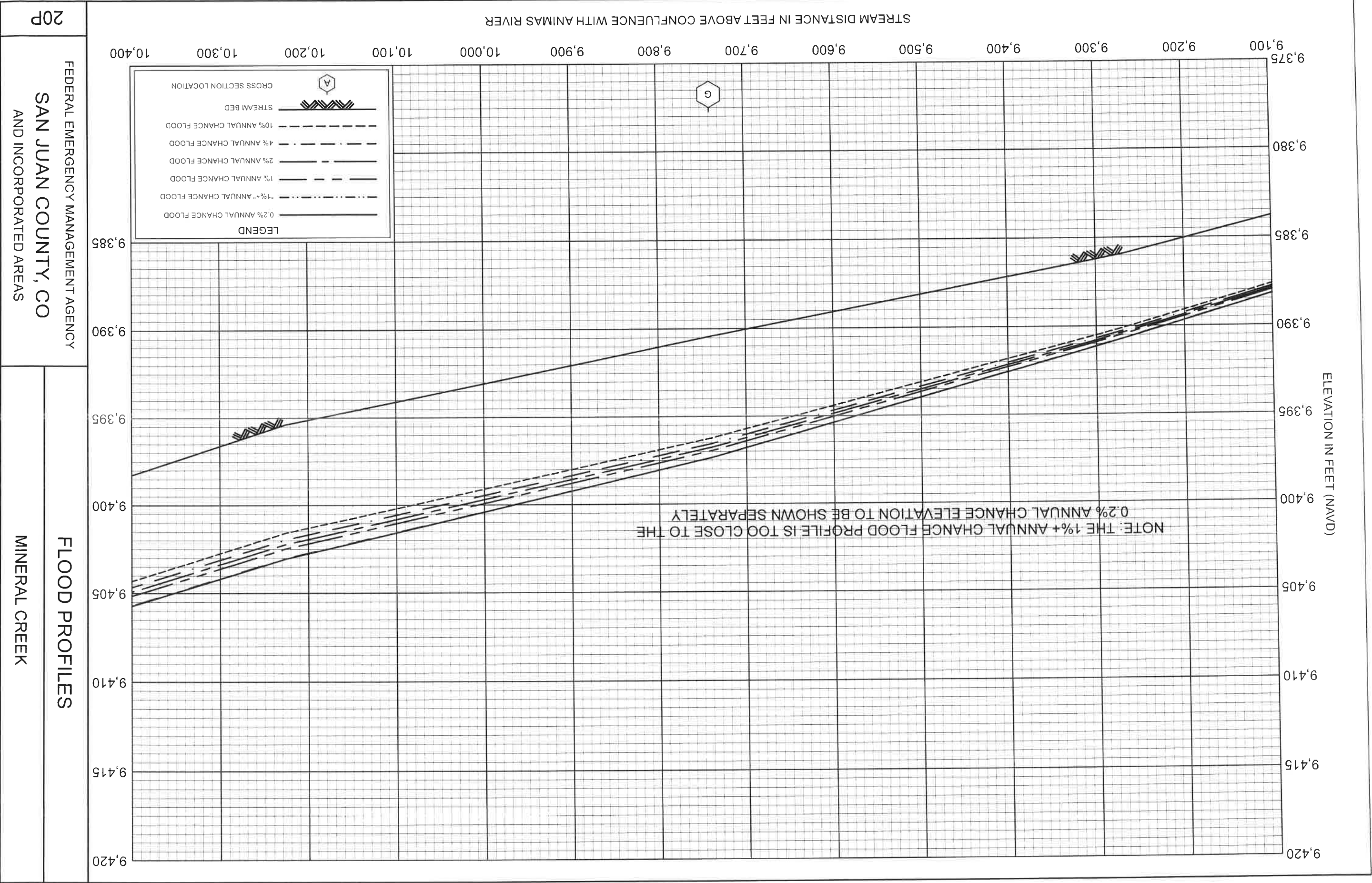


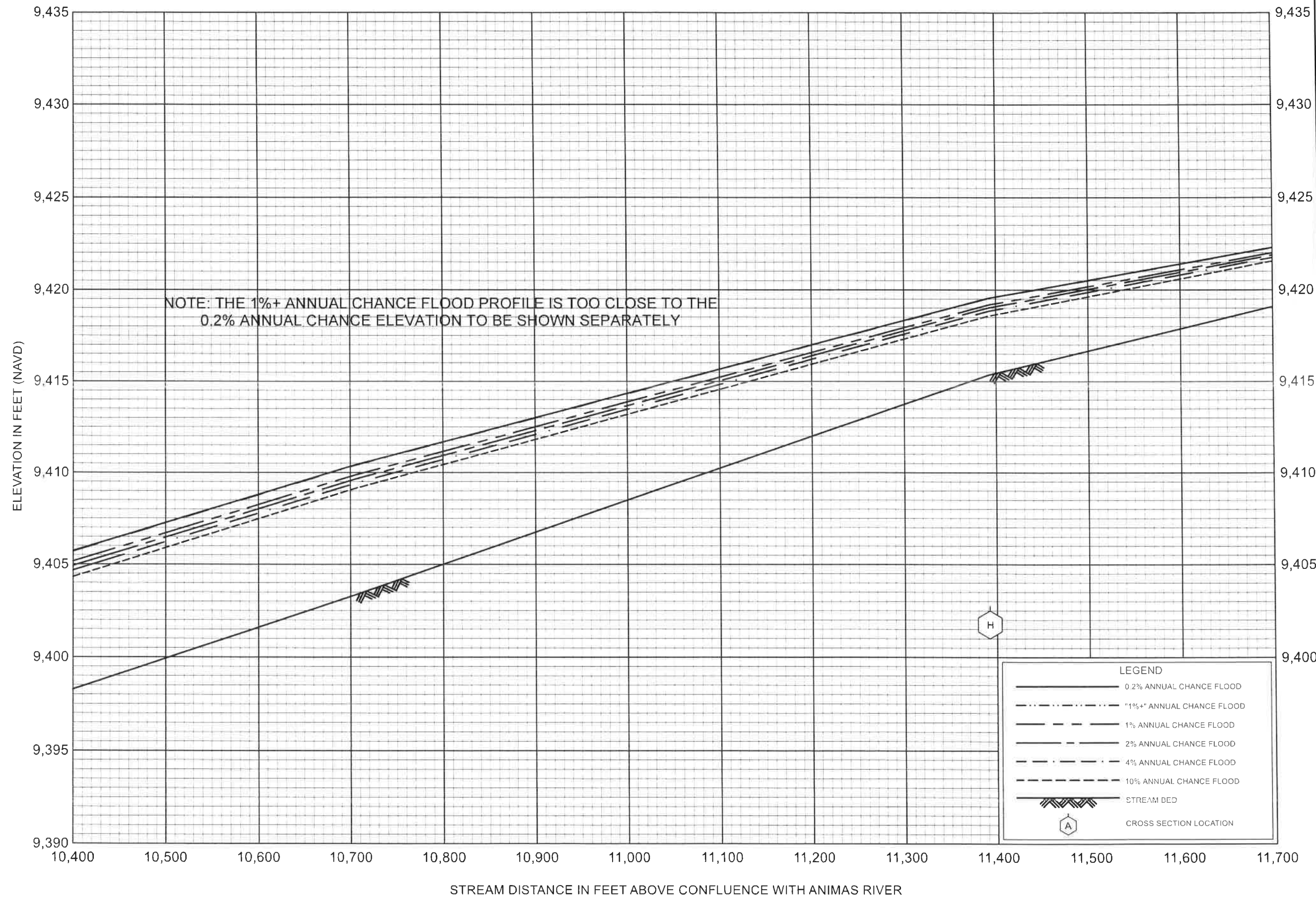
FLOOD PROFILES

MINERAL CREEK

FEDERAL EMERGENCY MANAGEMENT AGENCY

SAN JUAN COUNTY, CO
AND INCORPORATED AREAS



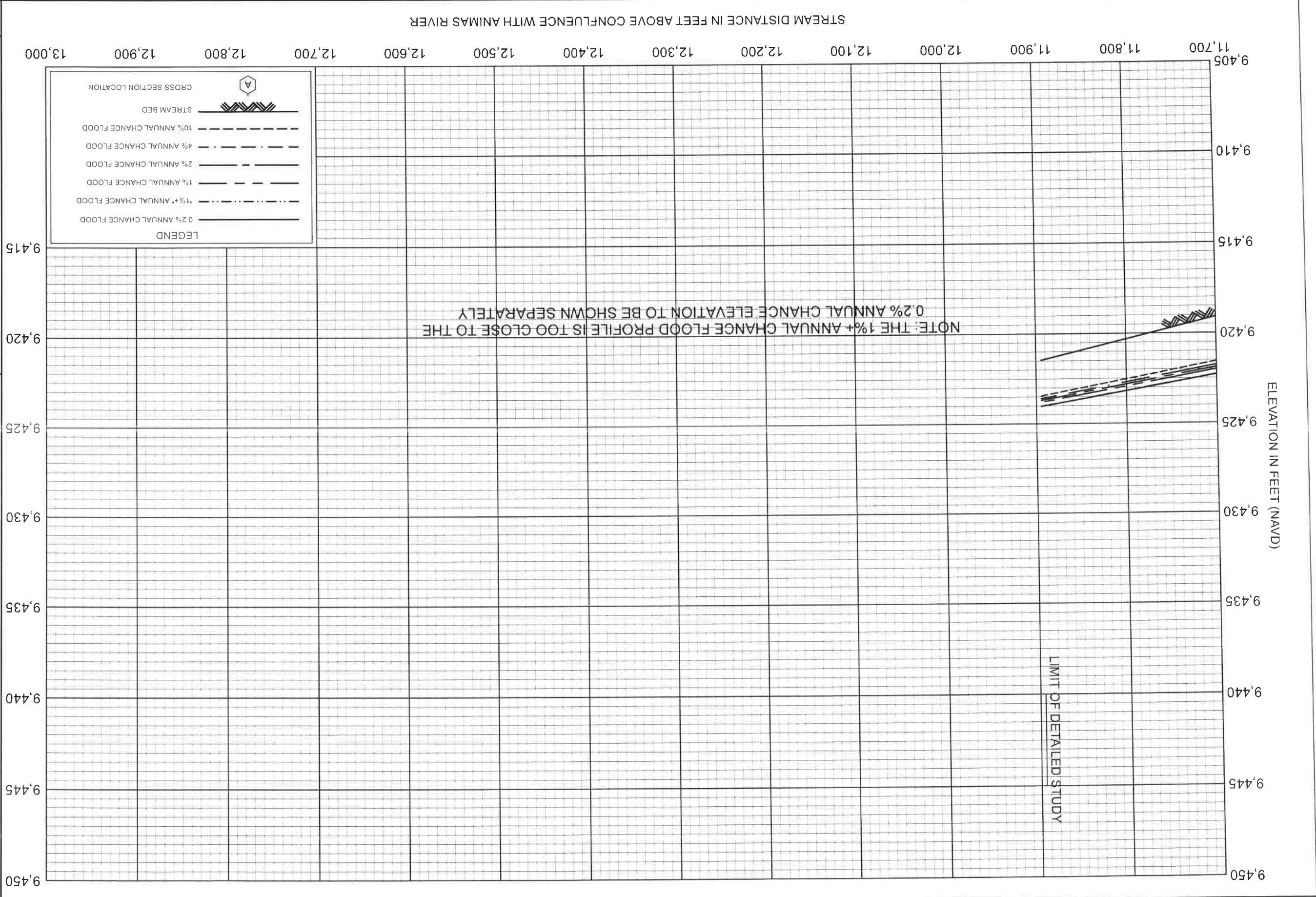


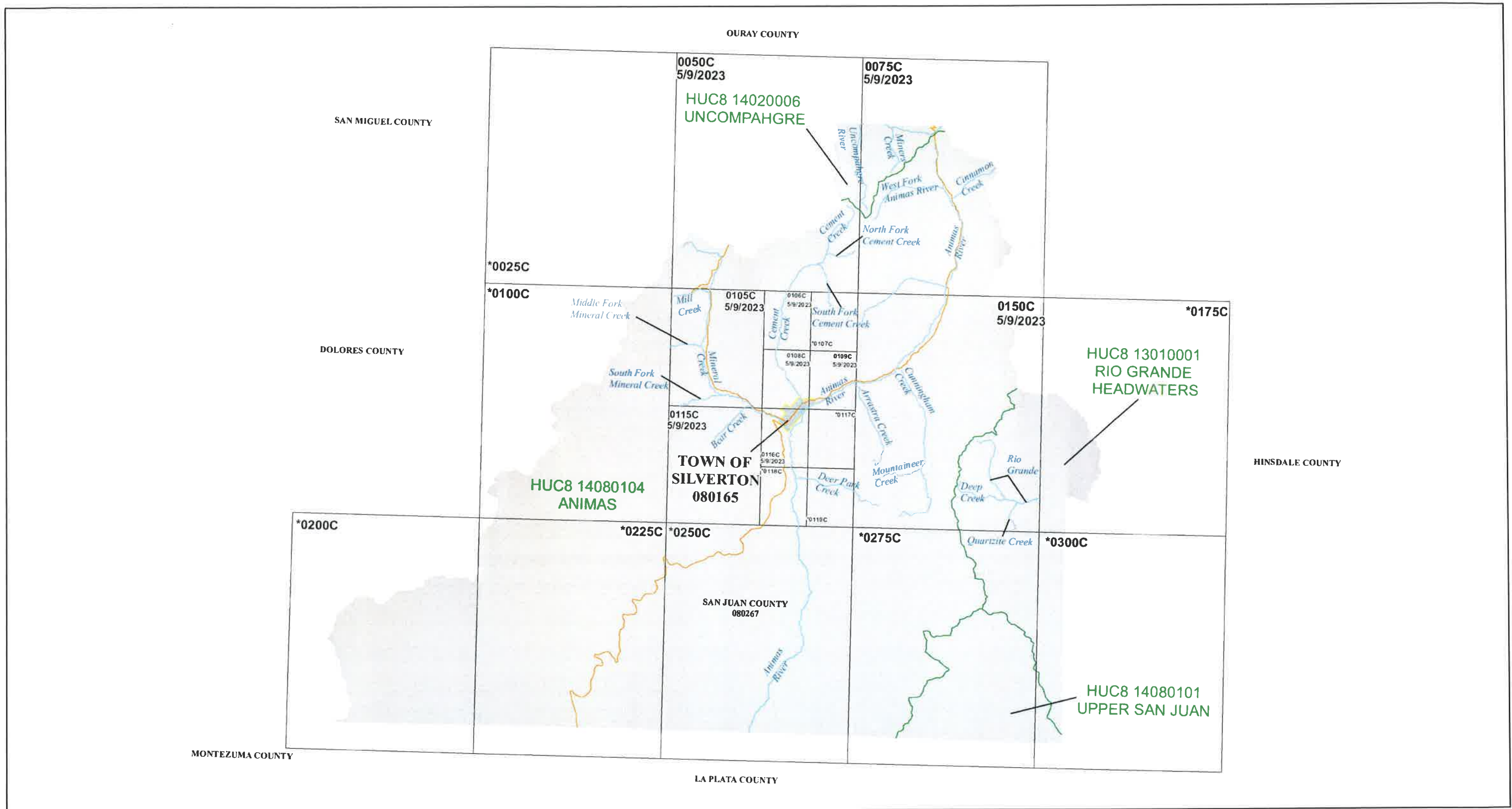
FLOOD PROFILES

MINERAL CREEK

FEDERAL EMERGENCY MANAGEMENT AGENCY

SAN JUAN COUNTY, CO
AND INCORPORATED AREAS



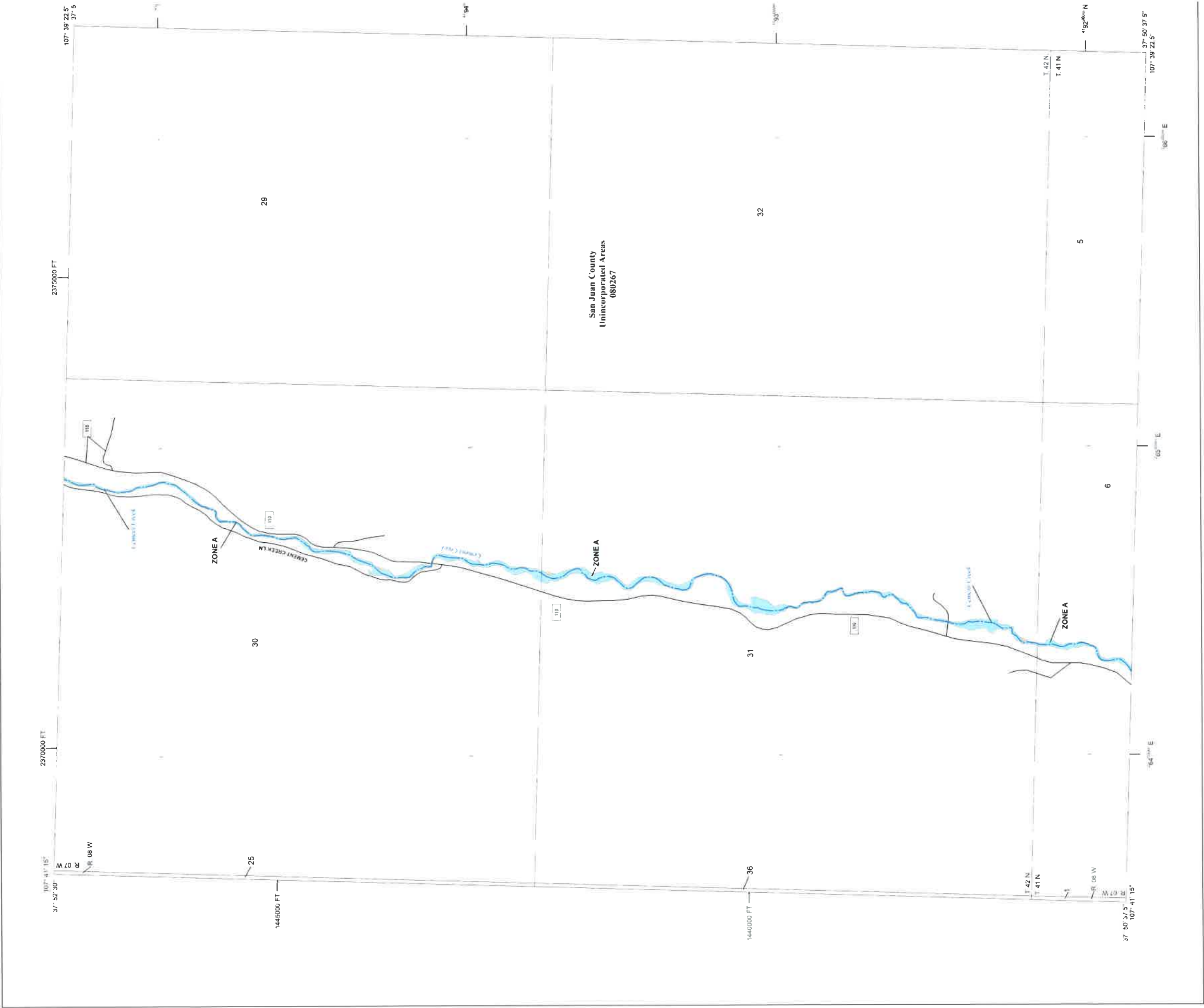


1 inch = 17,835 feet 1:214,025
 0 9,000 18,000 36,000 feet
 Map Projection:
 Universal Transverse Mercator Zone 13N;
 North American Datum 1983
 THE INFORMATION DEPICTED ON THIS MAP AND SUPPORTING
 DOCUMENTATION ARE ALSO AVAILABLE IN DIGITAL FORMAT AT
[HTTPS://MSC.FEMA.GOV](https://MSC.FEMA.GOV)
 SEE FLOOD INSURANCE STUDY FOR ADDITIONAL INFORMATION
 * PANEL NOT PRINTED - NO SPECIAL FLOOD HAZARD AREAS



NATIONAL FLOOD INSURANCE PROGRAM
 FLOOD INSURANCE RATE MAP INDEX
SAN JUAN COUNTY, COLORADO And Incorporated Areas
 PANELS PRINTED:
 0050, 0075, 0105, 0106, 0108, 0109, 0115, 0116, 0150





FLOOD HAZARD INFORMATION

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT
THE INFORMATION DEPICTED ON THIS MAP AND SUPPORTING
DOCUMENTATION ARE ALSO AVAILABLE IN DIGITAL FORMAT AT
[HTTPS://MSC.FEMA.GOV](https://msc.fema.gov)

Without Base Flood Elevation (BFE)

With BFE or Depth

Regulatory Floodway

0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile

Future Conditions 1% Annual Chance Flood Hazard

Area with Reduced Flood Risk due to Levee

Area with Flood Risk due to Levee

Area of Minimal Flood Hazard

Area of Undetermined Flood Hazard

Channel, Culvert, or Storm Sewer

Levee, Dike, or Floodwall

Cross Sections with 1% Annual Chance

Water Surface Elevation

Coastal Transect

Profile Baseline

Hydrographic Feature

Base Flood Elevation Line (BFE)

OTHER AREAS OF FLOOD HAZARD

OTHER AREAS

GENERAL STRUCTURES

NOTES TO USERS

For information and questions about the Flood Insurance Rate Map (FIRM), available products associated with this FIRM including historic versions, the current map data for each FIRM panel, how to order products or the FIRM, please contact the National Flood Insurance Program (NFIP) at 1-800-368-7674. For more information about the Flood Insurance Study (FIS) and the Flood Insurance Study Report (FISR), please contact the National Flood Insurance Study (NFIS) at 1-800-368-7674. For more information about the Flood Insurance Study (FIS) and the Flood Insurance Study Report (FISR), please contact the National Flood Insurance Study (NFIS) at 1-800-368-7674. For more information about the Flood Insurance Study (FIS) and the Flood Insurance Study Report (FISR), please contact the National Flood Insurance Study (NFIS) at 1-800-368-7674.

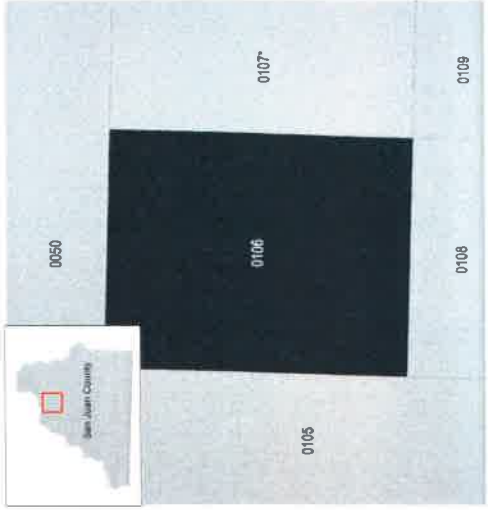
SCALE

Map Projection
Universal Transverse Mercator (UTM) Zone 13N, North American Datum 1983
Western Hemisphere, Vertical Datum: NAVD 88

1 inch = 500 feet
1:6,000

0 500 1,000 2,000 feet
0 125 250 500 meters

PANEL LOCATOR



NATIONAL FLOOD INSURANCE PROGRAM
FLOOD INSURANCE
SAN JUAN COUNTY, C
and Incorporated Areas
PANEL 106 OF 300



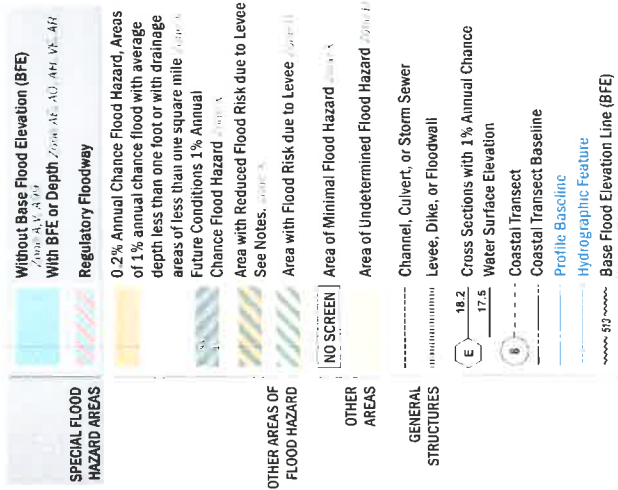
San Juan County
COMMUNITY
SAN JUAN COUNTY
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National Flood Insurance Program



FLOOD HAZARD INFORMATION

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT
THE INFORMATION DEPICTED ON THIS MAP AND SUPPORTING
DOCUMENTATION ARE ALSO AVAILABLE IN DIGITAL FORMAT AT
[HTTPS://MSC.FEMA.GOV](https://msc.fema.gov)



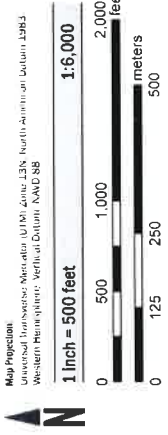
NOTES TO USERS

For information and questions about the Flood Insurance Rate Map (FIRM), available products, associated products or other information, please call the National Flood Insurance Program (NFIP) at 1-877-336-2622 or visit the FEMA Flood Insurance Mapping and Insurance exchange at <http://fema.gov/available-products> or visit the FEMA Flood Insurance Service Center website at <http://nsc.fema.gov>. Available products may include previously issued annual letters of Map Change or Flood Insurance Study Report, and/or digital versions of the map. Many of these products can be ordered or obtained directly from the website.

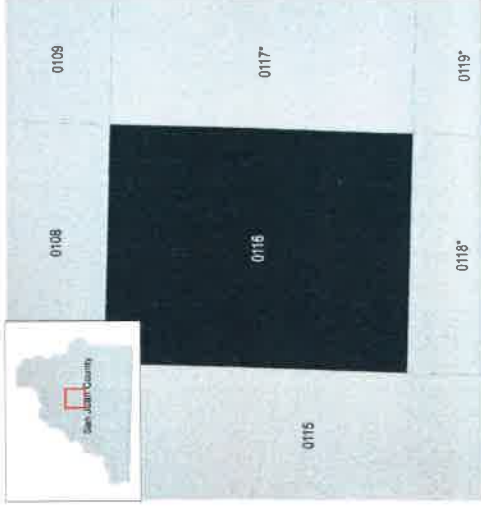
For community and countywide map dates refer to the Flood Insurance Study Report for this jurisdiction above.

base map information shown on this FIRM was derived from U.S. Census Bureau TIGER files, the U.S. Geological Survey and the San Juan County GIS Department (dated 2014) and the U.S. Department of Agriculture (dated 2010).

SCALE



PANEL LOCATOR



Kimberly Buck
San Juan County Assessor
Mail: PO Box 596 Silverton CO 81433
Office: 1557 Greene St. Silverton CO



Web: sanjuancounty.colorado.gov/assessor
Email: assessor@SanJuanColorado.us
Phone: 970-387-5632
Hours: by appointment

Press Release Date: April 27, 2023

San Juan County Property Values up 58.5%

On May 1st, Notices of Valuation will be mailed to all owners of taxable real estate in San Juan County. The notices include next year's property tax estimate. Throughout Colorado, property is reappraised every other year to adjust for market changes and new construction. County Assessors analyze recent sales and create valuation models to predict what each property would have sold for on the previous June 30th (assuming willing buyers and sellers). The State audits all assessors annually to make sure their valuations are within a tight statistical range relative to sales prices.

Sales prices have skyrocketed in the last few years throughout the rural west. In particular, mountain towns like Silverton have become more desirable than ever. With few homes on the market, even small houses in poor condition have sold for higher and higher prices. How much higher? As of June 30, 2022, 60% higher on average than June 2020. The increase wasn't confined to residential property. Commercial and vacant land sales prices jumped at about the same rate. Mining Claims with a potential (but not guaranteed) building site more than doubled in price. In fact, every type of property in San Juan County increased in value, with an overall average of 58.5%.

Owners can appeal their 2023 valuation by returning the appeal form included in their Notice of Valuation and by making an appointment with the assessor's office between now and June 8th. To make your case, the following should be attached to the appeal form:

- Recent appraisals (if any)
- Information to correct property characteristics (size, condition, beds/baths, etc.)
- List of comparable sales. Keep in mind that the assessor must time-adjust those sales prices to June 30, 2022

For leased commercial property, also include a rent schedule, square footage for each tenant-occupied space, and operating statement indicating income and expenses.

Questions regarding valuation should be directed to the assessor's office as soon as possible, but no later than **June 8th**:

- Email assessor@sanjuancolorado.us
- Mail the appeal form included with your Notice of Valuation to County Assessor, PO Box 596, Silverton CO 81433

Property Valuation Frequently Asked Questions

Q: Isn't there a limit to how much you can increase my property value/taxes?

A: No, at least not at this time. State Statutes require assessors to value property at market value, and tests those values against actual sales. State legislation would be needed to cap valuation increases.

Q: Why did my property go up more (or less) than others?

A: The increase of 58.5% from the previous valuation is an average. Half of all properties are up more than that. Each re-appraisal is based on a new set of local sales data. The calculations per size and adjustments for various characteristics change each time. That said, very similar properties should be valued similarly to each other. Fair and equitable valuation is what we strive for.

Q: Does this mean that Town/County/School will be getting 58.5% more tax revenue?

A: No, not exactly. Assessment rates throughout Colorado are lower for 2023, and the State Legislature passed several bills to lower taxes in anticipation of the broad increase in property values. The estimated tax printed on each Notice includes a value reduction of \$30,000 for commercial and \$15,000 for residential properties. Manufactured Homes worth less than \$28,000 are now tax-exempt.

Q: I didn't do anything to my property! How could the value change so much?

A: It was the sales prices for property comparable to yours that changed.

Q: My land would be prohibitively expensive to build on. Shouldn't it be worth less?

A: It is true that some land in Silverton would be especially expensive to develop. It is also true that many mining claims in the County are prohibited from being developed by current land use code. We have done our best to adjust the value of those properties using sales of similarly difficult or "unbuildable" properties.

Q: My Notice of Valuation has an error. Do I have to go through the appeal process?

A: No. Just contact the assessor's office to ask for it to be corrected. The earlier you catch the error, the better. We appreciate any opportunity to improve the accuracy of our data.

Have a different question? Just ask!

Kimberly Buck
San Juan County Assessor

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