

December 5, 2011 -

ALVIN B. HICKOX has been a Member Owner of the SOCORRO ELECTRIC COOPERATIVE, hereafter (SEC) for 25 years. This RECAPITULATION is offered to SEC Member Owners as an expose'.

Serious research commenced July 14, 2010 after a "notice of lawsuit" appeared in the El Defensor Chieftain Newspaper noticing that SEC Member Owners were being sued by SEC Trustees to invalidate specified enacted reform By-Laws. Up front it was fairly obvious that Trustees were "banking" on Member Owner apathy to win their cause by default. To prevent Member Owner default Mr. Hickox filed the suit's first answer on July 22, 2010, effectively preventing either default or withdrawal. Almost immediately SEC's Attorney Dennis Francish contacted Mr. Hickox by telephone requesting a settlement....by "withdrawal" ....which would be the equivalent of no settlement at all and would be of no value to reform Member Owner interests. Mr. Hickox's refusal to "withdraw" his answer surely earned him the disdain of Mr. Bustamante who co-signed said law suit as SEC's President. It is expected that this expose' will create increased hostility between most Trustees (including Member Owners friendly thereto) and Mr. Hickox.

Mr. Hickox urges each and every SEC Member Owner to do his or her own research and form his or her own opinion as to whether or not involved Trustees are persons who possess the requisite Honesty, Integrity and Mental Capacity to adequately oversee the operation of A Multi-million Dollar Quasi Public Electric Distribution System (SEC). It is Trustees obstinate refusal to accept and implement those By-law changes voted into place by Member Owners on April 17, 2010 which fuels involved dispute(s).

Please forward this expose' to all Member Owners, attend the next and all subsequent SEC Membership Meetings, stay informed and vote. (During WW II this advice would have been, "Give your Blood to the Red Cross and Buy Bonds").

By perusing [www.informedcynic.com](http://www.informedcynic.com), it will be learned that:

Sometime in 2007, District V SEC Trustee Charles WAGNER, commenced to "spearhead" a series of By-Law changes. For whatever reason the earliest date that any purposed By-Law change could be put to a vote of Member Owners was April 17th, 2010. Existing By-Laws prevent there from being a membership meeting in the absence of a quorum of members. Absent a quorum that year's meeting is cancelled. For lack of quorum there had not been a general member-

ship meeting in five years. The prospects of even having a qualifying 2010 membership meeting were slim to zilch. All of which factors long term sitting Trustees have fairly relied to retain their lucrative positions.

In the twelve months of 2009, long term sitting Trustees, Harold BACA, Leroy ANAYA, Juan GONZALES, Herman ROMERO, Paul BUSTAMANTE, Milton ULIBARRI, Manuel MARQUEZ, Leo CORDOVA, Jack BRUTTON, David WADE and relative late comer Charles WAGNER divided from SEC accounts some \$492,066.92 for an average take of \$44,788.00 each. These, funds being four times higher than the asserted \$11,000.00 state wide New Mexico average for Electric Cooperatives, should be viewed as the catalyst of events.

This accounting information was not made known to the general membership until a 2009 BOARD EXPENSE PRINT OUT, expressly depicting same, was apparently extracted from SEC files by a “reform group” spy and distributed to interested persons at the Saturday afternoon, March 27, 2010 Trustee sponsored “Informational Meeting” at Socorro's Finley Gymnasium.

No doubt it was the acquired and disseminated knowledge of this near one half million dollar 2009 drain from SEC coffers benefitting eleven SEC Trustees that inspired rank and file SEC Member Owners to “wake up” and become involved in SEC's financial affairs. It has been said that, “when the cat is away the mice will play”.

Trustee Wagner's proposed changes were designed to curb, if not eliminate, trustee perks and abuses. His purposed new By-Laws would mandate a healthy reduction in the amount that Trustees could siphon from SEC accounts each year, term limits would prevent the old timers from hanging on for years, a reduction in the number of board members from eleven to five would trim trustee expenses by sixty percent, redistricting would level the playing field, and adoption of transparency guidelines, i.e. voluntary compliance with New Mexico Open Meetings and Public Record Inspections Act statutes, would tend to expose mismanagement and the like. For the old gang....not good.

In late 2009 Prescilla MAULDIN, Luis AGUILAR and Donald WOLBERG, campaigning as reform candidates, unseated “old head” trustees Harold Baca, Herman Romero and Juan Gonzales whose term's of office would end at 11:59

P.M. December 31, 2009. This unseating occurred within a single unevenly represented SEC District.....District III.

With “three newcomers” replacing three “old timers” and a slate of new By-laws on the horizon, the remaining “old gang” members would humanly become rather thoughtful, if not outright apprehensive, over the prospects of losing a very valuable past source of personal income. It would therefore appear that if these “old gang” trustees were to retain a source of income from their SEC “gravity train”, they best develop a plan. It does appear that a program to defeat very legal, very ethical and very necessary Member Owner reform goals, financed by Member Owner funds, was launched. While this assertion is pure speculation, it surely fits that which subsequently transpired.

PLAN A, FIRST ACT, commenced sometime prior to December 28, 2009 and involved the drafting of an ATTORNEY RETENTION AGREEMENT by whomever, wherever, who knows.

PLAN A, SECOND ACT, occurred at the Trustees' Special Meeting of December 28, 2009 when they, the “old gang” trustees, entered into and signed the previously prepared agreement with Albuquerque Attorney Dennis Francish for legal services. Not yet seated, the new replacement trustees were apparently not involved in this attorney selection/retention process.

PLAN A, THIRD ACT, must have occurred shortly after the Attorney Retention Agreement was executed on December 28, 2009 and must have involved discussion between the “Plan” parties on how to go about sabotaging Wagner's reform effort (PLAN A and subsequent PLAN B).

PLAN A, FOURTH ACT, occurred on Saturday March 27, 2010 at what was called an “informational meeting”. This meeting was held at Socorro's Finley Gymnasium. Here the “old gang” Trustees, supported by new Trustees MAULDIN, AGUILAR and WOLBERG and THEIR hired attorney Dennis Francish, in person and via their minions, endeavored to verbally convince attending Member Owners that while those By-Law amendments purposed by Charlie Wagner were acceptable, there were many other options equally acceptable.

PLAN A, FIFTH ACT, occurred when the actors commenced to publish their eight page Glossy OFFICIAL NOTICE of annual membership meeting brochure. This brochure contained three pages of proposed By-Law changes, all apparently

designed and prepared, either directly or indirectly by (who else but) Attorney Francish. Obviously the provided information was intended to confuse, divide, dilute and defeat Wagner's reform effort at the ballot box or in the alternative to confuse the rank and file Member Owners so badly that they would simply not attend the involved scheduled meeting, thereby defeating Wagner's reform effort for lack of quorum.

PLAN A, SIXTH ACT, occurred (some 10,000 times over) when the SEC dispatched, via U.S. MAIL copies of their meeting publication to member owners system wide. This notice was in fact required for the annual meeting. But, by intermixing reform Group By-Law proposals with some twenty five other trustee proposed By-Law changes the obvious intent was to either dissuade attendance or split the vote in favor of Trustee interests. THE OBVIOUS INTEREST BEING TO SQUELCH REFORM.

The reform finale occurred on the evening of Saturday April 17, 2010 at Socorro's Finley Gymnasium where the SEC sponsored Annual Membership meeting was conducted. The gymnasium was packed, there was a quorum and despite the confusing thirty odd options the votes were taken and not one trustee option passed. By contrast all reform group By-Law changes prevailed. One would suspect that the trustees were "miffed", for after all their costly effort, they failed. Plan A having failed TRUSTEES turned to Plan B.

PLAN B, FIRST ACT (which was preceded by First and Second Acts of Plan A), is speculated to have commenced immediately following Member Owner passage of Trustee Wagner's Reform By-Law package on April 17, 2010 with the trustees authorizing their attorney Dennis Francish to initiate a law suit against all SEC member owners seeking to block implementation of those By-Laws thought to be most damaging to their cause. Here one could speculate that their thinking was, "kill" one By-Law by legal action, and all others will quietly die on the vine.

PLAN B, SECOND ACT, occurred on June 29, 2010 when Attorney Francish filed 13th Judicial District law suit # D1314cv2010-849 against all SEC member owners. This law suit was counter signed by Trustee Paul Bustamante as President of the SEC.

NUMERIOUS PLAN B ACTS, occurred after June 29, 2010 as Trustees "struggled" to maintain their frivolous legal position (s), all of which were akin to urinating in

the wind, at significant cost to Member Owners in litigation costs. Their arrogance and/or desperation is beyond contemplation.

Within an order uttered by District Court Judge Michael J. Mitchell Jr. on May 18, 2011 and filed June 24, 2011 it was, in effect, ruled that SEC Member Owners possessed the legal right to amend their organization's By-Laws as they see fit and further that the Trustees were obligated to either abide by the new Amendments or terminate. It would therefore seem that the involved SEC trustees had/have no legal right to use corporate funds to pay Attorney Francish, or anyone else, any amounts whatsoever to thwart reform efforts or to otherwise maintain their ill conceived law suit and that in doing so they commit the criminal offence of theft by embezzlement. Subsequently, it was the subject of attorney fees which caused Trustees, via their attorney, to prepare and file a flurry of "briefs" costing SEC Member Owners more expense.

Involving requests that SEC (The Losing Party) be required to pay Member Owners (The prevailing Party) legal expenses the Trustees objected, "spluttering" this that and whatever else.

Responding to these Trustee "spluttering(s)" Attorney Thomas Fitch on June 29 and July 29, 2011 submitted two briefs making three assertions: First, that trustees' lawsuit lacked GOOD GROUNDS, Second, that trustees' law suit was FRIVOLOUS and Third, that because of same, involved trustees and attorney Francish, as individuals, be held financially liable for costs.

Attorney Thomas Fitch was prevented from pursuing his July 29th position that Trustees, as individuals, be required to pay for their "frivolous" law suit for one week later on August 5, 2011 he was severely beaten and disabled by unknown person or persons. To date little information has been released to the public about Mr. Fitch's physical condition or the identity of his assailant(s). At this point one can only speculate as to "who did what to Mr. Fitch and why". Care to guess?

Within the August 11, 2011 edition of the El Defensor Chieftain Newspaper it was reported that pursuant to freedom of information guidelines (one of the contested Member Owner By-Law change gains) a copy of the retention contract entered into between SEC Trustees and Attorney Francish on the 28<sup>th</sup> of December 2009 was secured. Additional obtained information revealed that in the year and one half period after December 28, 2009, for services rendered, the SEC paid Attorney

Francish \$96,346.76 of which \$28,064.76 was billed in 2011. This \$96,346.76 does not include funds due or paid to Attorneys Darin Foster, Paul Kennedy or Dennis Francish after August 11, 2011.

Involving Judge Mitchell's November 8, 2011 \$13,000.00 Attorney Fee award decision, as reported in the November 12, 2011 edition of the El Defensor Chieftain Newspaper, one must conclude that he, Judge Mitchell, has not availed himself of all facts associated with the ongoing SEC dispute.

If Judge Mitchell had been aware of those facts cached on the web and/or stored within El Defensor Chieftain News files he (Judge Mitchell) just might not have been inclined to assert views that clash so strongly with the views of SEC reformers. For Judge Mitchell to assert that he believes that SEC "brought" their lawsuit in good faith and that their arguments were not "silly" defies logic. Moreover, while acknowledging that it was SEC Trustees who were not doing what they were supposed to be doing while presuming that the Trustees know what they are doing, is ludicrous.....except that the afore described PLAN A and PLAN B events reflect that the Trustees knew exactly what they were endeavoring to accomplish, which no doubt was to maintain their pre April 17, 2010 way of conducting SEC business.

While Judge Mitchell's decision to award attorney fees to prevailing member owners must be "applauded" it is feared that his statements, as reported, fueled Trustees apparent resolve to win at any cost and inspired Trustees to seek postponement of that attorney fee award, (motion filed November 21, 2011) thereby prolonging the battle with additional briefs increasing the costs.

At this point one must contemplate if criminal theft by embezzlement charges could be sustained against those Trustees who participated in the forgoing described effort to thwart SEC reform. Here a court of competent jurisdiction has ruled that SEC Member Owners had and have had a legal right to amend the By-Laws of their Corporation as they see fit, which right obviously preexisted the afore described PLAN A and PLAN B ACTS. Judge Mitchell's ruling did not "create" that "right", it simply "affirmed" that "right". That established, it would seem that the Trustees had and have had no legal right to use Corporation funds to pay any amounts whatsoever to anyone to protect and preserve their own personal sphere of worldly benefits and that in doing so they acted outside the scope of their fiduciary duties. Had Trustees used their own personal funds to thwart

reform no theft theory could be advanced. Apparently they (THE TRUSTEES) did not, choosing instead to pay “costs” from Corporation coffers.

At the Socorro County Court House on May 18, 2011 following the SEC vs West et al, hearing presided over by Judge M. J. Mitchell, an apparent SEC Member Owner, friendly to one or more SEC Trustees, became rather “mouthy” hurling derogatory remarks in the face of SEC’s Principal Reformer. That person either did not appreciate the Judge’s decision or perhaps was being encouraged to “act out” by persons close to one or more Trustees. The resulting Socorro Municipal Court Criminal case (#M-52-MR 201100396) has now remained on the court’s docket for several months. On August 5<sup>th</sup> 2011, two and one half months later the person of Attorney Thomas Fitch, a litigant opposing SEC Trustees, was brutally beaten by yet unidentified person(s). Obviously, the described Court House scene is connected to the SEC dispute which raises the possibility that Fitch’s assault may also be connected? There are people who think so. Equally important is the probability that others may be assaulted in the future.

One would think that by this date the facts of this SEC saga would have come to the attention and/or interest of law enforcement, be it City, County or State..... no such luck.

#### WARNING:

Let it be known that if there is an attempted felonious assault, by any person or persons upon the spouse, homestead or person of Alvin B. Hickox, such assault will be repelled with force. As to verification of Mr. Hickox’s handgun proficiency interested persons may contact the Concealed Handgun License Section of the New Mexico Department of Public Safety. Mr. Hickox’s **RETIRED POLICE OFFICER** License number is 27086.

This Recapitulation is dedicated to the concept that: The Price of Freedom (and keeping “politicos” honest) is Eternal Vigilance.