



State of New Mexico
OFFICE OF THE STATE AUDITOR

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State Auditor Tim Keller Releases Special Audit of City Water Deal in Jal
Over \$650,000 in unsupported water credits given away to a water customer in rural town near Hobbs

SANTA FE, NM – Today, State Auditor Tim Keller released a special audit of water issues in Jal, a rural community near Hobbs. The audit was initiated after the Office of the State Auditor (OSA) received information suggesting that water utility credits were provided to a private customer in violation of the state’s Constitution. The audit covers the period from 2008 through 2016 and found improper adjustments and billings totaling over \$660,000. OSA recommends immediate corrective action to restore funds and guard against improper city financial agreements.

“When we’re talking about a city giving away over half a million dollars in water, a handshake deal doesn’t cut it,” stated State Auditor Tim Keller. “Every deal made with public funds must have appropriate documentation and authorizations so taxpayers know what they’re getting and what they’re giving away in return. Without that, the City seems to have violated a core tenant of good government by trading public resources to individuals for personal gain.”

The audit found the following:

- Over \$650,000 in water credits were given to a customer’s industrial and residential accounts without adequate public approval and documentation.
- The credits were apparently given to reduce the water charges for the customer in consideration of right-of-way access that the customer had been providing to some of the City’s wells and the possibility of serving as an emergency backup for the City’s water supply. However, relevant and required legal documents for the agreement were not produced, the City Council did not approve the deal and there was no apparent relationship between an assessed value of the access received and the credits provided.
- The City of Jal likely violated the state’s anti-donation clause (Article IX, Section 14 of the New Mexico Constitution). Additionally, the OSA calls upon the City to take immediate corrective action to attempt to recover funds.
- The Jal resident who was given most of the water credits was also approved to sell 500 acre-feet of water (162,925,500 gallons) each year for hydraulic fracturing (fracking) related to oil and gas production even though the Jal Basin was technically closed by the Office of the State Engineer due to lack of water. The City ceased its commercial sales

for fracking purposes but supported the resident's request to gain approval of his own well for this purpose. One acre foot of water in the Jal Basin can sell for between \$8,000 and \$16,000 dollars

- The long-term sustainability of the City's water supply is at risk. The water system that supports the City's 2,000 residents is supplied by wells in the Jal Basin, which is part of the larger Pecos Alluvial Aquifer. Most of that aquifer is located in Texas where the City of Midland is drawing large amounts of water.

The City of Jal has developed new policies and procedures to strengthen internal controls over water billing practices. As part of the annual audit process, the OSA will review the adequacy of the steps the City has taken to address the shortfalls.

The OSA previously issued a Risk Advisory regarding municipal utility billing practices that is available here: https://www.saonm.org/media/uploads/Risk_Advisory_-_Utilities_7-26-16.pdf

The complete audit is available here:

https://www.saonm.org/media/audits/6096_City_of_Jal_Water_Ulility_Billing_July_2017.pdf

The Office of the State Auditor helps government work better by providing transparency and accountability for government spending; informing policy choices; and tackling fraud, waste and abuse. OSA is an independently elected executive agency responsible for examining the use of public dollars in New Mexico.

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