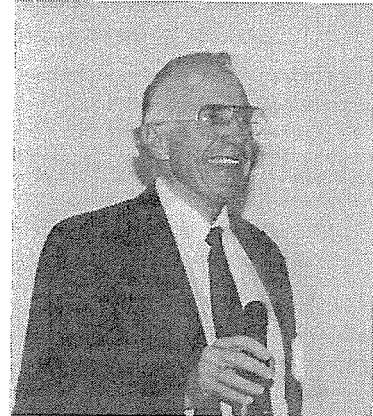


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HISTORY OF NEW MEXICO WATER PLANNING

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All of us here have dealt with regional water planning in one way or another or are at least interested in it. If I were to give you just three or four words to remember from this talk about regional water planning, those words would include: *bottom-up, partnership, homework*, and the phrase *dust on the shelf*. Those are the keywords from my perspective on regional water planning.

A funny thing happened on the way to the El Paso case. We in New Mexico were sitting sort of fat, happy, and complacent when the city of El Paso came in and stood first in "our line." They were the first in the queue to apply for a water permit for a yearly water allocation of about 300,000 acre-feet from southern New Mexico. We looked around and said, "Hey, El Paso is applying for our water under New Mexico law. They are playing by our rules."

Under New Mexico law, cities are able to plan ahead for their future water needs. The law provides for a 40-year planning horizon. In order for the state engineer to grant communities a permit for water, those communities have to show that they have or will have a need for that water. The community must have done its homework. Communities must develop economic and demographic projections that demonstrate

that future growth justifies their request as best they can predict.

El Paso had done its homework. We were given a wake-up call in the state of New Mexico about "our water." It woke us up to the fact that communities around the state had not done their homework. We did not know how much water we were going to need in the future. We did not know from where that water was going to come. As a result, the governor and the legislature appointed a committee headed by Chuck DuMars from the University of New Mexico School of Law to study New Mexico's water laws and needs.

The committee looked at all kinds of things. Early in their work they determined that El Paso was not the only city that might be on the outside looking in for our water. Economists told us that other cities in the surrounding area like Lubbock, Amarillo, Tucson, and Phoenix were economically and physically within reach to come over and stand in our line for "our" water. These cities could build pipelines and export our water out-of-state. El Paso might be only the first among many.

Also giving the committee pause, was the U.S. Supreme Court case, *Sporhase v. Nebraska*, in which the court ruled that states cannot necessarily use the word "our" when referring to water anymore. Under

the commerce clause of the United States Constitution, state lines are erased and a state cannot forbid the export of its water. New Mexico did have an export statute which forbade water exportation to, for example, Lubbock or Amarillo. That statute was trumped by the *Sporhase* decision. The decision, combined with El Paso's move to secure a water permit, forced New Mexico into action. We decided we had to establish some sort of system to make certain that communities around New Mexico would, in fact, do their homework.

The result was legislation establishing the regional planning concept in New Mexico. Unlike most states, the idea was to follow a bottom-up approach rather than a top-down approach. In most states that have water plans, the plan is prepared by state authorities, or from the "top down." New Mexico decided to take a bottom-up approach and have communities, or regions of the state, prepare their own water plans.

The state government is in the position of being a partner in the planning process and that is where the partnership idea comes in—partnership between the state and the communities. With the financial help of the legislature, the state can review regional proposals and if those proposals are acceptable, the state can provide at least part of the money to regions to develop their own water plans. In this partnership then, the state provides most of the money, but the regions themselves do their own water planning. They hire their own engineers, economists, and demographic experts.

The process requires the regions themselves to do their own homework to find out what their population growth is likely to be, what economic development needs are likely to develop, and therefore how much water will be needed and from where the water will come. With that information, regions will then be on at least equal footing with El Paso or Lubbock or any other city wanting New Mexico's water. Regions will be in the position to apply for water rights to meet future needs.

New Mexico is now in the process of developing regional water plans. The state engineer will provide a much fuller report on the status of the various regional water plans later today, but it can be said that we have initiated the process successfully. When I say "we" I am referring to the regions of New Mexico which have initiated successfully regional water plans—and we now have plans either completed or underway for practically all parts of the state. Those plans will contain the information necessary for communities to

plan for their future, including acquiring the water necessary for that future.

We have been very successful at developing regional water plans up to this point—something for which the state of New Mexico can be very proud. Nonetheless, there is a risk, and I bet it is on the back of everyone's mind here, that we will have all those regional water reports, but they will just sit on a shelf somewhere gathering dust. And that is a risk. But I do not think that will happen because if, for example, any industry wants to come into New Mexico, whether it be in Encino or Shiprock or Lea County, they will surely want to know what the job base is, what the educational system is, and very high on their list is determining what water is available to their company. Communities around the state will be able to answer that question with the help of their water plans.

Although it is not explicitly part of the act, regional water plans must be kept up-to-date. I would suggest also that they be reviewed and revised at least every seven years, probably every five years would be better. It must be an organic, ongoing, dynamic process so that our homework is not allowed to be put on a shelf and gather dust. We have to keep them up-to-date. We must meet the future water needs of the various regions of the state. We must prepare for the future. That preparation requires as its groundwork knowledge and information. Regional water plans are nothing more than that. Knowledge and information allows the communities themselves to acquire water rights for their future.

So to reiterate what I've said: a *partnership* between the state and regions is necessary; the *bottom-up* approach comes about by having regions hire their own people to develop their own plans; the planning process requires that we do our *homework*; and we must be alert and not allow regional water plans to sit and collect *dust on a shelf*.