

## Priority Administration

Dudley Jones  
Carlsbad Irrigation District



*Dudley Jones graduated from New Mexico State University with a major in business. He spent 28 years with the JCPenney Company in stores, district staff work, and store management. Prior to starting with Carlsbad Irrigation District in 2008, Dudley was Vice President of The Cavern Supply Company (concessionaire at Carlsbad Caverns National Park) for eight years. He has been with the Carlsbad Irrigation District for five years and is living proof, as he says, that an old dog can learn new tricks.*

Well, I do need to inform you that there is a little-known Homeland Security regulation that any time there is a gathering of real critical intellectual property that the I.Q. cannot exceed a certain number, and I am here to make sure we don't exceed that number, and I am proud to serve.

Priority administration is based on two things: one is beneficial use and the other is prior appropriation, which is first in time gets first in right. Em Hall did an excellent job of explaining all of that to us, so I don't need to try to explain that to you again. Given the likelihood that we have streams that are over-allocated due to the manipulation or use of this policy, most these streams have had no consideration of the shortage sharing agreement that was also intended to be part of that prior appropriation. You can see this with over-allocated streams and the undesirable impacts of international treaties, interstate stream compacts, endangered species flow requirements, and historic drought that we have experienced in the Southwest. In 2013 we saw how of these issues led to a stress point. Weather variability will continue and may even become more extreme in its future impacts. This potential raises the sense of urgency required to address these sensitive water issues and other critical related elements of water in the state of New Mexico.

Up to this point, I have only stated some of the obvious things that we have been talking about this morning. We, in this room, are well aware of all of the issues that we are facing and we probably have a stake in one or all of the issues in some way. The proverbial can—priority administration—has been kicked down the road for years and has been left for us to deal with or kick a little bit further down the road. We can sit and talk about what we

should have done, and what we could do, and that all makes interesting conversation in the evening when we are sitting around having some drinks. But what are we really going to do about this now that we are facing a crisis? Nothing really forms a solution at this point.

Let me talk about why the Carlsbad Irrigation District (CID), specifically, and some of our partners are interested in resolving this issue. On January 8, 2013, we were faced with the third year of a severe drought impact and water availability to CID members. Through the CID Board, the directors adopted a resolution calling for immediate dialogue among the settlement parties. That includes CID, the Pecos Valley Artesian Conservancy District (PVACD), the New Mexico State Engineer, the New Mexico Interstate Stream Commission, the U.S. Bureau of Reclamation, and anybody else who felt they had issues. No really, that was about it besides the State of New Mexico. We wanted to find a way that we could all deal with this issue. Subsequently, we had several meetings after a solution was passed among those settlement parties and the governor's office that joined later. Senator Carroll Leavell and Representative Cathrynn Brown were approached about the possibility of legislation that might help us avoid litigation and a priority call, Senate Bill 462. Both Districts, CID and PVACD, testified before committees and worked at the legislature to try to get SB 462 passed, but it died in the Finance Committee and the legislative session ended without passage.

On April 2, 2013, the CID Board of Directors adopted a resolution to make a priority call to the state engineer as is provided for in Section 11 of the settlement agreement. That section basically states

that if CID doesn't get at least 50,000 acre-feet of water at its Avalon Dam diversion, they make a priority call. Carlsbad Irrigation District reinforced and reaffirmed their desire for a priority call at each target settlement date subsequent to that date of the initial priority call. So the real questions for a priority administration: What are they going to look like? State Engineer Scott Verhines told us what a lot of that might look like this morning. I also have some ideas of what might be included.

First, I am sure that the facts will be checked such as what were the flows, how much water people actually had, how much was available, and who used what. Identifying that information will be an extensive process. Second, there will be exhaustive and extensive modeling taken place to determine the system capabilities, the impacts of various actions that could be implemented, and how they could produce real usable water. Third, lists of priority users by date of priority, who fits in where, and how much water they have will be compiled. Fourth, the State Engineer would probably have a plan of action that would include something like a replacement plan, curtailment, water banking, some combination of these, or new actions that could be implemented to address the shortages. Lastly, you can bet that all along the way that all of this will be challenged in court.

While few, if any, of us present today really are responsible for the challenges of this predicament, it may be our duty to resolve it and to avoid more can kicking, pun intended. But, what are the real answers? I can tell you for sure that I don't know, and I am not sure that anyone here really has all of the answers. What I do know is that we need to continue talking. Isn't this something that is really of importance to all of us and an issue that needs to be resolved for the whole state? What do we do now? Where do we go? What is the status of prior appropriation? Is it dead or does it mean anything? If it is dead, then what is it going to look like or how will it be resurrected? While these are challenging and difficult questions, we probably have more challenging and difficult questions ahead. Nothing will be resolved in any reasonable time frame without continued dialogue. There is still a need for the court system to validate any agreement, but I believe it is more our job to communicate and negotiate rather than litigate.

Water and climate change move in geologic time, while critical water issues in New Mexico move in judicial time, and I can't tell you which one is

faster. But I can tell you that we need a real-time way to address these issues and to address the more current and pending conditions. What we have learned today is that a lot of things have happened, lots of things could happen, but we are not certain what will happen. However, we are sure that things will change. As Dr. Catlett challenged us this morning, we must be creative and persistent and keep the water economy of New Mexico going. Therefore, my prediction is that something significant will happen with priority administration sometime in the future.

Thank you.