

PANEL - WATER IN LAND DEVELOPMENT

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First, I would like to thank the hosts of this conference for inviting me to appear on the panel. I believe it should be made clear that while many of the land subdividers will agree with some of the things I may say, the opinions which I may express, or the position I may take, not all may agree. Therefore, I am prepared to discuss only my own situation.

I believe it important that in any discussion there should be certain common definitions or premises. For example, I suggest that the three areas of land subdivision may well be defined as the local or independent subdivider, meaning those who cut relatively small acreages into various size portions and sell them themselves or through local real estate agencies to persons who most generally visit the sites for sale. Of the larger subdividers, I consider there are two classes - one, such as my operation - which is strictly rural - and other operations which actually afford resort or urban facilities, in many instances including all of the utilities.

Land is acquired for one purpose, in my opinion, and that is use - not use in the strictest sense of the word, but no one acquires land without some intent of use, be it for farming, stock, residential, commercial or investment purposes. Both the intent of the purchaser and the suitability of the land should meet, but regardless of acquisition of land, whether it be within a community or within a subdivision outside of any community, the intent and suitability may not meet.

Being in the land subdivision business is my bag, or thing. Others may elect professional studies, spur movements, accept employment, but in the great, great majority of whatever anyone does as his thing, the ultimate goal is to try to live the good life and, hopefully, leave something for his heirs. I make no apology for my business or my way of life.

Now, insofar as land subdividing is concerned - having chosen a location, having determined that it is suitable for the purpose for which it is intended, it is only natural that the subdivider will use to his benefit any regulation, statute, or lack thereof, that will enable him to recapture his rather substantial investment, pay his extravagant overhead, and hopefully receive some reward. This is as true about the acquisition of a commercial tract within a community. Certainly involved in the selection of the property will be rules, regulations, zoning, utilities, and the myriads of things for consideration.

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So, briefly, if it is assumed that acquisition of land is for use, as outlined by me, then there is no difference between a subdivider and any other acquirer.

The idea that the subdivider is an unreasoning, conscienceless, land rapist is as full of hot air as those who would so represent him. The subdivider, by the very reason of his substantial investment and continuing overhead, must be responsible and responsive.

Of late, legislation which has been proposed has concerned itself primarily with water. I think this is a realistic thing, except that I feel the water situation should be under full disclosure. I refuse to believe that in my particular area, any of the use of water by the subdividers has denied previous adjudicated rights. I think this situation might occur differently in other areas which, of course, is why it has been my personal opinion that to a large extent, subdivision control should be left at the local level. I submit to you that there is a considerable difference in developing water in Grant County where water is relatively scarce and the cost of drilling is very high, and in the area along the Rio Grande River in Dona Ana County or in my own county of Luna. By the same token, I think it interesting that there are areas where the porosity of the ground is such to make subdivision almost totally impossible, unless sewage systems are to be installed. I recall the rather substantial investment that we made in a ranch because of the water situation, and acted like fools, because we didn't investigate further. As a result we found we were hitting water at 12 feet in a gravelly base. There was no way that we could subdivide without either putting in a water system or a sewer system. We disposed of this particular ranch, frankly at a loss, because this was an area where we just plain didn't pay enough attention in the beginning.

I am advised that the State Engineer has issued within the Mimbres Water Basin or the Extended Basin 300 domestic well permits in the past 5 years. These are not stock watering wells, these are domestic wells. There is no great argument between me and the person wishing to control the amount of water that is permitted under a domestic permit, that people don't use three acre feet of water which is approximately a million gallons a year. I do think that the bill introduced in the 1971 legislature providing for 3/4 acre foot was too limited. Further than that, I felt that the sponsors of the bill were way off first base when they pointed out that a commercial establishment could have 3/4 of an acre foot, but purely for sanitary purposes. In other words, if a man wanted to plant a tree or several plants around the little commercial establishment, he was forbidden to. I think that the amount should be specified, but then the freedom of use other than commercial should be permitted. As stated before I do think that 3/4 of an acre foot was not enough, but I would be most acceptable to 1 1/2 acre feet, even though I don't think the people are using it. I base this on the fact people ultimately moving to our great state to avoid the chaos of rigid urban living may anticipate a small orchard or garden or something and I think they should be permitted to utilize that.

At any rate these 300 residences using an acre foot apiece would have only taken the water from a 100 acres of irrigated land and I submit to you that they are not even in the same aquifer. We calculated that if we allowed 150 gallons per day per person for 3 1/2 persons in a family that in order to move into 10% of the allocated water use for irrigation in Luna County, we would have to build two new residences a year for the next 20 years. If this happened you can imagine what these people are going to get for their water rights because economy dictates that sooner or later as the area grows, private water systems are going to have to be constructed. I can foresee a day in the future when the son or grandson of some farmer who is trying to make both ends meet can get \$5,000, \$6,000, or \$7,000 an acre for water rights.

I would also like to point out that I think there is a greater constituency who want, with reasonable controls, the freedom for their own decisions on land than has been contemplated by persons attacking land subdivisions on the basis of water.

I assume that I am here to discuss my feelings on water in land subdivision. It is my own personal opinion that land use planning should be the first thing we get accomplished. I think this should happen in every county, and I am very much in hopes that the current bills in the Federal Congress will pass permitting funding in counties which just can't afford it at the moment. In the interim, I think most land subdividers are more than willing to meet reasonable controls based on the fact that following the land use planning, we can arrive at definitive and more rigid control.

I will be happy to answer any questions that I can.