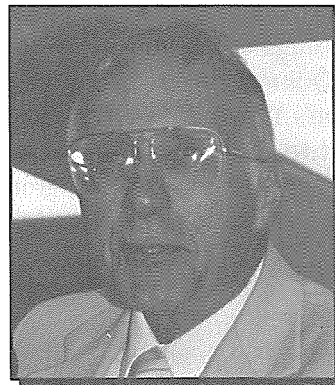


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TRANSBOUNDARY PERSPECTIVES

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We could talk about transboundary water resources and conflict resolution on almost every river in New Mexico. We have had major transboundary conflicts on the Rio Grande, Vermejo, San Juan, Gila, Pecos and Canadian rivers. Water is a precious resource and we fight over it. As somebody said, "Whiskey is for drinking but water is for fighting." We know that story well here in New Mexico.

Today I will talk about the international dimension, specifically, the U.S.-Mexico relationship. Every one of the rivers I have mentioned is part of an international river or has an international dimension. The San Juan River is part of the Colorado River flowing into the Gulf of California; the Vermejo and Canadian rivers are transboundary but not international, and flow ultimately into the Gulf of Mexico; the Pecos River is part of the Rio Grande drainage basin and therefore part of an international river; the

Rio Grande is an international river; and the Gila eventually flows into the Colorado, an international river and the source of conflict between Arizona and the rest of the Colorado River basin states. Arizona could never agree to the Colorado River compact because it did not want the Gila considered as part of the Colorado. Arizona considers the Gila "their" river.

When we consider the international transboundary dimension there is good news and bad news. The good news for New Mexico is that the allocation of the main international rivers that we share with Mexico has been settled between Mexico and the United States by amicable agreement. We have had our international obligations on the major rivers settled through peaceful dispute resolution. We have two separate treaties on the Rio Grande and one on the Colorado. At the international level, we have settled the disputes with Mexico so at least in New Mexico, we do not have to worry about international claims

coming in and trumping all our disputes on the Pecos, the Rio Grande, or the Colorado.

The 1944 Rio Grande treaty governs and divides the waters between Mexico and the U.S. below Fort Quitman, Texas. The treaty divides the main stem's flow roughly fifty-fifty, fifty for Mexico and fifty for us, which seems like a fair deal. However, Mexico tends to grumble a bit from time to time because two-thirds of the Rio Grande's flow below Fort Quitman comes from Mexico. They supply the lion's share of the water so they feel that a fifty-fifty split isn't so good. However, nobody wants to reconsider that treaty and nobody will because it is too difficult to reach agreement on all the issues that would be raised.

We have a 1906 treaty on the upper Rio Grande that allocates 60,000 acre-feet every year to Mexico to be delivered to Juarez just north of El Paso in the main channel. Similarly, on the Colorado River, the U.S. has an obligation to deliver 1,500,000 acre-feet to Mexico every year to be delivered to Mexico's main take-out dam, the Morales Dam, just south of the border by Yuma. That is the good news. We have been able to settle those disputes, although neither easily nor quickly. It took decades, half of the 20th century, to sign those treaties.

The bad news is not completely bad. We have not been able to reach agreement with Mexico on groundwater. We have an agreement on surface waters, which assures our water rights. Mexico does not know how much groundwater to which it is entitled and the U.S. does not know to how much it is entitled. Likewise the cities of Juarez and El Paso do not know to how much they are entitled. We have a gentlemen's agreement hoping that the other side won't hurt us too much. That kind of arrangement in New Mexico doesn't let neighbors sleep soundly at night. New Mexico was one of the first states to have an effective groundwater law; it has been in place since 1931. Texas has not been able to pass a groundwater law yet. Arizona passed its groundwater law in 1980. California's groundwater law is pretty much a mess. Colorado has an effective groundwater law. It has been difficult for states to deal with groundwater. Because groundwater

is out of sight, it tends to be out of mind. That is certainly true at the international level.

The city of El Paso shares the Hueco Bolson with Juarez and both cities are growing rapidly. Other cities along the U.S.-Mexico border are in the same situation where they are dependent to a major degree on groundwater yet they have no security or ability to regulate how much water anyone can take. A group of U.S. and Mexican lawyers, economists, engineers, and geologists have made suggestions for a groundwater treaty between the U.S. and Mexico. The treaty does not suggest anything novel, but proposes an approach similar to New Mexico's whereby the state engineer can declare critical zones in areas where withdrawals exceed recharge, or where contamination is threatening supply. In New Mexico we call a critical zone a declared basin, and a permit is required to pump groundwater in that area. The state engineer determines whether or not a well would harm or impair the neighboring wells. It is a fairly simple system that protects the well owner's investment. What are the prospects for a groundwater treaty between the U.S. and Mexico? It likely will take some kind of crisis to force the issue.

During the last legislative session, Texas enacted legislation to regulate withdrawals in the Edwards aquifer which lies below the Austin/San Antonio/San Marcos area. This wonderful limestone aquifer, where the water flows like a river, contains species living 1,000 feet below the surface that have never seen daylight. These species have been living happily there until people, like a catfish farmer, drilled a well that suddenly threatened the water supply of San Antonio and San Marcos. Everyone felt vulnerable yet no one wanted any regulation. The sentiment was that no one wanted government bureaucrats regulating what could be done on private land. But when people began to see the effect of their neighbor's well on their own water supply, attitudes changed. Six decades after New Mexico passed its groundwater legislation and after blood was spilled in the halls of the state legislature in Austin, Texas is going to establish the Edwards Aquifer Authority with the power to manage and protect the aquifer, require permits

for groundwater withdrawal, and hopefully bring about some order through regulation. It took a real crisis to get to this point.

When will Mexico and the U.S. come to terms on groundwater legislation? Possibly when we reach a further crisis in El Paso. Some think we are near that crisis in El Paso now. Although figures vary, withdrawals significantly exceed recharge. It is estimated that 20 barrels of water are withdrawn for every barrel of recharge in the Hueco Bolson. The city of El Paso projects that by about 2020, they will have depleted their potable water supply. Both Juarez' and El Paso's populations are growing quickly—Juarez has 1 million people going on 2, and El Paso's is 600,000 going on 1 million. Three million people will live in the area tomorrow depending to a major extent on groundwater availability. Maybe it will take a catfish farmer on the other side of their property to bring them into some kind of order along the U.S.-Mexico border. I hope it comes before a crisis hits and irritates our relationship too much. Up to now, the U.S. and Mexico have been able to resolve transboundary problems amicably through dispute resolution. I hope we can resolve potentially serious disputes with Mexico, not only in the El Paso area, but with other places along the border west toward California before we are at each other's jugular.