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Growth and Development for Tribes and Pueblos in New Mexico

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“All the traditions that the Pueblo of Acoma is familiar with, whether they be dramatic rituals, anecdotal historical narratives, cycles or specific incidents in history, speak about a source: where people come from.

Wherever it all began, when elements came together, there was fire, there was water, there was earth. When people recognize this beginning, it gives them significance.

Land is the source of physical and spiritual life. People reaffirm their relationship to the land by telling of this relationship, making the telling their document for owning, protecting, or fighting for it. Never a moment, never a day passes without telling something

about the water and land. And not only how to plant it, not only its spiritual and religious nature, but giving it, in this day and age, a political nature too. That's what oral traditions do. It constantly reaffirms, it constantly gives substance to our development and it constantly gives credence to sustainable Tribal homelands.”

Today, New Mexico no longer comprises only a population of Hispanic and Native people who earlier were the inhabitants this region. There was once a very large population base of Native people before the inquisition of the Spanish, Mexican, and European governments.

The Pueblo tribes once accounted for more than the current 19 Pueblos of New Mexico, as one can

see throughout New Mexico—the once great cities of those other Pueblos that no longer exist. Sixteen Hundred and Eighty spelled the year of the great Pueblo Revolt. After a time of peace and tranquility amongst the tribes, the re-entrance of the Spanish militia created the lowest ebb of the population downtrend of the Pueblos. Some Pueblos experienced an almost total devastation of its people.

It is with this that I begin to tell a new story. For many of you who have attended conferences and meetings where Native people are involved, you will notice that much of what is said is in stories. I stand before you today to put the finishing touches on the old story that was begun by Nelson Cordova and Peter Chestnut and begin to tell a new one.

We're now in the 21st century and a new dawn in history is beginning to awaken the Pueblo, Apache, and Navajo tribes in the region. We are no longer just the agricultural based people growing crops for sustainment—we as Native people are evolving as new business entrepreneurs—planting the seeds of economic sustainment in a world that is very new to us.

With this change comes the increase in demand for basic services. As Peter commented, it does not make sense to compare basic services of rural communities to those full services of a city or municipality. On some Navajo reservations, basic water service is non-existent with consumable water at less than two 50-gallon barrels. These two 50-gallon barrels are used for cooking and drinking, washing dishes, and bathing, and what is left is used to wash a few clothes—for a two-week period!

TRIBAL DEVELOPMENT AND PUEBLO INDIAN WATER RIGHTS

Pueblo and Tribal Population Growth

Our native populations are growing, in some instances, two- to four-fold. With this growth, comes the development of infrastructure and the increase of tribal water use. Pueblos and tribes are facing the reality that their water rights must be protected and they must begin to use their full tribal water rights. This will rekindle age-old controversies pitting tribes against cities, towns, and municipalities and stir up relatively new controversies with, for example, the Endangered Species Act (ESA).

The battle lines have been drawn in some instances, and in the middle Rio Grande region, the

issues surrounding the ESA have only begun to surface in the past several years. Tribes must now contend with protecting their full beneficial water rights, not only for surface water, but also for groundwater. The scenario has been set and how the final scene plays out is up to the parties involved. But that final scene must acknowledge the senior water rights of New Mexico's Pueblos and tribes.

Changing Economics

Pueblos and tribes are becoming key economic powers in New Mexico as are other tribes in their home states. These economic gains are readily visible by the development of major resorts that include hotels, casinos, and golf courses. However, even in this day and age when economic powers seem to collide on an everyday basis, tribes continue to develop for the good of the entire community. An example is the soccer multiplex built by Santa Ana Pueblo. The project contributed to the greater good of the community and is an example of where beneficial use of irrigation water lent itself to tribes asserting their water rights. Isleta Pueblo's championship golf course is another fine example as are many other tribal endeavors.

New developments are being planned by tribal entities and these developments will create more water demand. Thus the developments surely will enable tribes to exercise and assert additional water rights. Tribes also must plan to develop in such a way as to not impair the quality of its water resources, both surface and groundwater. We must continue to be stewards of not only our lands but, most importantly, our water resources.

Senior Water Rights

As tribal needs grow, junior water uses may need to yield or pay a fair price to tribes for impacts on senior priority water rights. As tribal entities push forward with development projects and as they watch their populations grow, competing demands for water use will undoubtedly force adversarial issues with junior water uses. With tribal demands growing, the need for tribes to expand and use their full beneficial rights becomes an immediate reality.

Given increasing water demands, impacts from years of tribal water use by non-Indian junior water users will be felt more acutely. Just as tribes will have to contend with these impacts, so must those junior users. The end result may be junior users

paying fair market value for the impacts to tribal senior priority water rights' holders. Unless the Office of the State Engineer begins to enforce and control what is being used in its application process, junior water users will unknowingly face this reality. However, the same goes for junior water users in ensuring that they do have a real water right.

Tribal Water Leasing

Tribal water leasing generally requires an act of Congress. However, tribes are now in the position to look at their water rights not being currently used within their own tribal jurisdictions, and consider creative ways to utilize those rights through such avenues as water banking and water leasing. However, leasing or banking of water rights generally requires Congressional approval.

Another disadvantage to leasing or banking water may be that after years of leasing water, the concept of ownership of that leased water may arise. Tribes and others interested in water banking and leasing should look at all possible repercussions before getting involved in such an arrangement, lest they sell themselves short. The age-old native adage of "we gave an inch and they took a mile" is one that should be heeded.

IMPACTS OF GROWTH ON GROUNDWATER

As cities, towns, Pueblos and tribes continue to expand and grow, we will feel the impacts of each other's water use and development.

Contamination

Impacts of Pueblo and tribal developments are felt throughout the state. Superfund sites are currently impacting both surface and groundwater supplies. In addition, rural areas also are adversely affected by septic tanks.

With many tribes located downstream of large cities and towns, the effects of surface and groundwater pollution is felt. In the instance of the Pueblo of Acoma, during the 70s and 80s, the City of Grants dumped raw effluent into the Rio San Jose. After many years of legal posturing and hearings, the parties in the matter reached a settlement. The end result has been zero discharge to the river. This has cost the City of Grants millions of dollars to build a new wastewater treatment facility. Be that as it may,

long-term impacts on the Rio San Jose from years of discharge may never be known.

Sewage Treatment and Effluent Reuse

Treating sewage and reusing effluent will play a larger role in the 21st century. In a water-short state like New Mexico, we must be prepared to explore the possibility of water reuse. A first step begins with public education. If we are to be efficient water stewards, our towns and municipalities must be willing to conserve water and reuse treated wastewater for beneficial uses. Pueblos and tribes must jump on the band wagon and look at our consumable supplies and then look at how we can replenish that supply without taxing other water resources.

Recognizing Senior Pueblo Water Rights

Getting senior Pueblo water rights recognized and putting that water to use benefits our larger society. Traditional Pueblo cultural views benefit not only Pueblo members and lands, but also our neighbors.

As Pueblos and tribes, we have a long road to travel in getting our senior water rights recognized. We feel it is fairly simple, and it is in that simplicity that we see the larger benefits to society. Surely there would be a great advantage in quantifying our water supply; there would be no question as to the amount of water that would go to meeting New Mexico's compact delivery requirements.

In essence, if we open our minds to exercising "first in time, first in right," water planning would become straight forward. We would not have to guess if there really is an available supply. It is a disservice to the regional water planning process if the large amounts of senior Pueblo water rights are not recognized. That wrong must be corrected or no one will benefit.

Tribal Water Management Programs

Many of you are well aware that Pueblos and tribes have made substantial gains in the management and regulation of its tribal natural and water resources. The Water Quality Standards of Isleta Pueblo have demonstrated that the Pueblos and tribes are serious about protecting its resources. This trend will continue as Pueblo and tribes see the definite need to protect their tribal resources.

Below is a list of some of the current management programs where tribes have regulatory control.

It should not be assumed that all the tribes have such programs in place. We have encouraged tribes to begin the process and to build upon that process.

- Water Quality Standards Authority
- Section 319 Non-Point Source Authority
- Source Water Protection
- Wellhead Protection Management
- Groundwater Protection
- Wetlands Regulation Control
- Water Codes

From this point, let the story begin where we build upon the idea that we can, as a species, survive through our cooperative efforts. So that in the future, we do not list our unborn as the endangered species.