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## WHAT'S HAPPENING IN THE LOWER RIO GRANDE BASIN IN NEW MEXICO?

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The answer is, a whole bunch of things. For the next fourteen minutes, I will attempt to bring you up to date.

### FEDERAL QUIET TITLE SUIT

As many of you know, the United States filed suit in Federal District Court a couple of years ago in an attempt to gain legal title to, basically, all of the water in the Lower Rio Grande Basin. Mediation was attempted and abandoned, as no one was willing to give up his or her water to satisfy the Federal Government's claim. Motions to dismiss the federal action based on jurisdictional and other issues were filed and briefed by the New Mexico entities. The United States and the Texas entities argued that the Federal Court was the proper jurisdiction. I can happily say that Judge Parker agreed with us and dismissed the federal action. We won the first round.

The U.S. has appealed. We will now see what happens in round two.

### EBID ACTION

In an effort to retain administrative and operational control of Rio Grande Project Water in the Lower Rio Grande, the Elephant Butte Irrigation District (EBID) filed suit against the U.S. in Federal District Court in New Mexico on September 18, 2000. The complaint seeks to declare the contractual relationship among all parties involved with the operation of the Project, compels the defendants to enter into an operating agreement regarding the Project and the appointment of a Special Master to administer the agreement. The complaint also seeks a declaratory judgment that the 1920 Sale of Water for Miscellaneous Purposes Act is inapplicable to transfers of water and conversion of uses within the Rio

Grande Project. This is based upon the fact that the EBID has fully repaid its debt to the U.S. on the Project. It is certainly in the best interest of the City of Las Cruces and the other New Mexico entities for the District to prevail in this action.

### **ADJUDICATION OF WATER RIGHTS IN THE LOWER RIO GRANDE BASIN IN STATE DISTRICT COURT**

The effort to adjudicate the water rights in the basin is proceeding at a fair pace. The hydrographic survey is nearing completion for the entire basin. The offers of judgment for the Nutt-Hockett Basin were well received. Now we get to the fun part, the farmers and other water users that rely on Project surface water and/or related groundwater in the basin. While offers at this time have dealt only to acreage, it is evident that the key issue at hand is the duty of water associated with the lands within the EBID, and the priority dates associated with those rights. This may take months of negotiation or years of litigation with the affected parties. It will be hard to address any of the other issues until those are resolved, solely because of the amount of water involved. Then the State Engineer can look forward to the massive number of "claims of rights" in the basin.

### **LAS CRUCES/EL PASO SUSTAINABLE WATER PROJECT**

At this time, the Las Cruces/El Paso Sustainable Water Project is ninety percent El Paso and ten percent New Mexico. The main crux of the project for El Paso is to utilize more Rio Grande Project surface water for municipal and industrial (M&I) purposes and reduce the dependence upon non-renewable groundwater in the Hueco Bolson, which will be depleted in the near future. In short, El Paso needs to acquire surface water and build treatment capacity ASAP.

The City of Las Cruces and other entities in New Mexico, are in a different position at this time. While the City of Las Cruces has made the commitment to begin phasing in the utilization of surface water in the next ten to twelve years, the other municipal water providers in the area do not, at this time, have the information at hand to make that commitment. Therefore the money being spent at this time in the New Mexico portion of the project is going to-

ward providing that information so informed decisions can be made.

### **FORTY YEAR WATER PLAN**

The last item really shows the importance of having our forty-year water plan in place to protect our water for future use in New Mexico. The City of El Paso needs surface water and they would love to have ours. They have enough in the Texas allotment for their needs, but if they could get New Mexico water as well, the available supply would increase and their price would decrease.

It's kind of hard to swallow if you live in southern New Mexico. The City of Las Cruces, for example, has been planning a transition to the use of surface water over a long period of time as dictated by demand. This will enable the City to acquire the surface water rights or allotments in an orderly fashion as development and urbanization of the agricultural land occurs over time. The last thing that we want in our valley is the wholesale retirement of agricultural water rights and the fallowing of our precious farmland. If you don't agree, go see the Owens Valley in California. Our best protection from that occurring in the Lower Rio Grande is to have a forty-year water plan in place that shows the need for New Mexico water in New Mexico. I am happy to report that the forty-year water plan for the Lower Rio Grande is being prepared at this time and will be completed within the next two years.

### **CONVERSION OF RIO GRANDE PROJECT SURFACE WATER FROM AGRICULTURAL TO MUNICIPAL USE IN THE LOWER RIO GRANDE**

The City of Las Cruces and the EBID have discovered that we can work together to make positive things happen. Over the last four years, the City of Las Cruces and the EBID have gotten together and begun to understand each other's needs and concerns about future water supply in our region. I call this the development of a positive relationship that will grow closer over the coming years. It is very interesting because we have found that we need each other for the future. To date, we have entered into a joint resolution that sets up basic guidelines for the City to acquire Project water rights and annual allotments of water. We have come together and initiated

## What's Happening in the Lower Rio Grande Basin in New Mexico?

two significant pieces of legislation for the conversion of Project water; the forty-year lease period and the Municipal Water Users Association statutes. The City has begun entering into forty-year term leases this year. The City Council will pass a resolution forming the first Municipal Water Users Association this month with the EBID Board approval coming shortly afterward. By the first of the year, steps one and two toward Ag to M&I conversion will be complete. The final step has also been started. Legal counsel for the City and the District believe that existing state statutes allow for the completion of the process and we have begun the process of protecting those statutory provisions.

The municipal water providers and the EBID will be responsible for the conversion of Project surface water from agricultural to municipal use in New Mexico. We can do this in a positive manner or we can fight for it, be assured we will do it.