

John W. Keys, III was sworn in as the 16th Commissioner of the Bureau of Reclamation in 2001. He oversees the operation and maintenance of Reclamation's water storage, water distribution, and electric power generation facilities in the 17 Western States, where Reclamation is the nation's largest wholesale water supplier and the fifth largest electric utility. John has spent his entire 34-year professional career working with Reclamation throughout the western U.S. From 1964 to 1979, he worked as a civil and hydraulic engineer on issues related to the Great Basin, the Missouri River Basin, the Colorado River Basin, and the Columbia River Basin. In 1998, he retired from federal service, having served as Pacific Northwest Regional Director for 12 years. In 1995, John was awarded the U.S. Department of the Interior's highest honor – The Distinguished Service Award – for maintaining open lines of communication and keeping interest groups focused on solutions. A commercial airplane pilot, Keys owns a Cessna 182 and previously averaged about 300 flight hours a year; many of them for Angel Flight, Air LifeLine, and County Search and Rescue, based out of Moab, Utah. In addition, he has been a college football referee since 1970 and a high school referee since 1962. His wife, Dell, is a family practice physician and Airman Medical Examiner, and flies a Cessna 172. A native of Sheffield, Alabama, John received a bachelor's degree in civil engineering from the Georgia Institute of Technology and a master's degree from Brigham Young University. John is a registered professional engineer in Colorado, Wyoming, Montana, and North Dakota.



IN THE SPIRIT OF COLLABORATION - DEVELOPING SOLUTIONS TO NEW MEXICO'S WATER PROBLEMS

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Good afternoon. It is my absolute pleasure to be here this afternoon. I will tell you that since I have been Commissioner, I have traveled to a lot of places and every time I come to New Mexico I see why people love to live here. It is truly one of the great places in the West. And like I told somebody this morning, they don't call it "Land of Enchantment" for nothing. It is truly a great place.

The one thing that impresses me, though, as we meet this year, is how dry it is. If you look at a map of the western United States (posted on the Internet every week, as an update on the drought index) for this entire year, there has only been one of our 17 western states that has had normal or above precipitation and runoff. That state is California.

The drought that we are suffering through is centered over New Mexico, Arizona, Utah, part of Colorado, Wyoming, and Montana and we are certainly seeing the results of that drought. Of course, those of you who live here know how challenging it has been for us this year to manage our limited water supplies, especially for our traditional water users, new uses of water, and then planning for the future.

Before I go ahead, let me tell you about some changes that are happening around Reclamation. Most of you know that we have an area office here in Albuquerque; Ken Maxey has been the area manager for almost two years. He has taken a job in Denver with Reclamation and will be moving there this month. Also this month, the new area manager for Albuquerque will be Jack Garner. Jack has worked on my personal staff back in Washington for the last two years and has been heavily involved in our work here in the basin. He is a native New Mexican and certainly brings a lot of positive assets to the basin, and to the state of New Mexico in his new job. We look forward to him being here and being our representative in the state of New Mexico and the Middle Rio Grande, Pecos, and the other areas that we work with.

If you consider the problems that we are dealing with in New Mexico, it will give you a good idea of the challenges that Reclamation and water districts face on a daily basis. The challenge of meeting ever increasing water demand is real. Limited supplies and multiple responsibilities for water that we have in dry years emphasize the importance of water to those districts that we have contracts with for water supply, the water rights and interstate compacts that go along with supplying that water, and the obligations that we have to Tribes and Pueblos. Even with the legal requirements that we have to endangered species, Reclamation is committed to deliver that water and to generate power in an environmentally and economically sound way. When we're out of water though, it gets tough.

We are fortunate to have Secretary Norton and President Bush working with us. I will tell you that we have briefed our Secretary every week this summer on what is going on in the Rio Grande. We have also briefed the President and the Vice President on the water supply situation throughout the West. Mr. Bush is committed to addressing western water issues in a balanced and practical way. I will talk later about *Water 2025*. And certainly their support is there for that program. In his requests for Reclamation

appropriations for fiscal years 2004 and 2005, Mr. Bush has shown that commitment.

First I would like to focus on the particular situation that we are working with here on the Rio Grande. Reclamation operates the San Juan-Chama Project and the Middle Rio Grande Project to provide water for irrigators, for cities, for pueblos, and for other water users in New Mexico. On top of that, New Mexico is home to two endangered species, the silvery minnow and the willow flycatcher. I'm going to concentrate on the silvery minnow because of the water requirements that go along with it. The situation here has given us many opportunities to work hard and put our heads together to try to find solutions that involve all of our water users. A lot of the aspects of that collective effort have worked well this year and we should all be proud of how we got through this year with the water supplies to our irrigators, to the cities, to the minnow, and to meet the delivery requirements to the pueblos. That being said, there is always room for improvement. And certainly some of the things we're putting together this winter, we look forward to trying next year.

Let me talk about good news and bad news. First, the good news. I would like to start out by recognizing the Endangered Species Collaborative Program. This program is one that Senator Domenici has been personally involved with. It brings together representatives from all sectors of the water community. The Collaborative Program has received bipartisan support. Senator Bingaman has been there along with Mr. Domenici in the funding from Congress. As a result of that effort, real progress has been made in water management, habitat restoration, population management, and fish passage improvements. Certainly there is more to be done, but we worked this year with a good collaborative effort from all of the users. One of the most successful actions was flow that we were able to do early. It triggered the spawning of the minnow and helped us keep the population alive.

The Collaborative Program is truly a collaborative effort involving Reclamation, Fish and Wildlife Service, Bureau of Indian Affairs, Middle Rio Grande Conservancy District (MRGCD), New Mexico Game and Fish, and the City of Albuquerque. These entities have worked together to continue the propagation of the silvery minnow and certainly the recovery efforts worked because of their efforts. Fish rescue efforts have expanded with help from many of the stakeholders. I think if you ever have a chance to go

see the refugia that has been built down there where they are actually raising silvery minnows, you should take that opportunity because it lets you see some of the other things that are being done rather than people just standing back there in their foxholes yelling for more water to be released down the river. In terms of habitat restoration, Reclamation and Fish and Wildlife Service have been working very closely together in cooperation with the Pueblos, the State of New Mexico, the City of Albuquerque, and MRGCD. We have been successful and have tried to do some long-term planning.

The cooperation of the Pueblos has been integral in our recent successes on the river in trying to meet their prior and paramount water needs and at the same time deliver minnow water. We certainly appreciate the level of the Pueblos' involvement and their commitment and willingness to work with us on those deliveries. All of these accomplishments are significant improvements and I am not sure a few years ago we could have expected to accomplish as much.

Another great partner in this whole effort has been the State of New Mexico. Their cooperation was extraordinary this past spring because of the Interstate Stream Commission's willingness to work with us to find a creative solution to meet water users' needs as well as the minnow needs. In the spring and early summer of this year, representatives of the State of New Mexico went to Texas and talked the Texans into agreeing to allow New Mexico to relinquish credits that it had accrued under the Rio Grande Compact. It allowed Reclamation to store 30,000 acre-feet to supplement existing river flows for the minnow. It allowed MRGCD 46,667 acre-feet for irrigation purposes. Without that water, it would have been a dismal summer in the Middle Rio Grande.

Let me just put in a word here for the two people who lead those two agencies: John D'Antonio and Estevan López. They are great people to work with. We have hardly had a month or a week go by that we have not had exchanges of information and telephone calls about how to keep flows in the river, how to find the waters that we need to make available, and certainly they have been great partners. I commend the State of New Mexico for those two people and the work they have done.

Now that we have talked about the good, I guess I could say the bad and the ugly are coming up next. When we talk about litigation and the 10th Circuit Court Opinion, the complication of an already difficult situation gets worse. I can not even talk about a lot of

it because of ongoing litigation. But let me just give you the bare bones and then we will quit. In 2002, the Federal District Court held that Reclamation had the discretion to reduce contract water deliveries and to restrict water diversion for an endangered species. Certainly that was plowing new ground for all of us. All of the intervening parties with the United States appealed the District Court's decision to the 10th Circuit of Appeals. In June of this year, the 10th Circuit upheld the District Court's decision. The United States and other parties have petitioned the 10th Circuit to rehear the case and the court ordered supplemental briefs on whether the case is moot and should be vacated. Legally, the case might be moot at the end of the year, and if it is, the 10th Circuit should vacate the lower court's decision and the 10th Circuit's decision. Reclamation still strongly feels that the 10th Circuit's decision is wrong and we will pursue that issue through the appropriate appeal channels in the future all the way to the top if that is what it takes.

Now let me talk a little bit about this year's operations. With the legal backdrop I just described, we operated most of the irrigation season this year with that looming over us as to whether there was going to be an additional decision or not. Reclamation had been trying to purchase water from willing sellers in the basin and we have had some success. The minnow water that is there is certainly the result of that effort. It became apparent last year that we are going to need about 14,000 acre-feet this year. At the same time, the department was committed to meeting the needs in the basin to the highest level possible, including the irrigation needs of the six Middle Rio Grande Pueblos. We were unable to purchase enough water to guarantee that we would be able to meet the requirements of the biological opinion early and we actually had to delay delivery of some San Juan-Chama water. We had to hold that water back until later in the year. For awhile, we did not know if we were going to make it or not. In the end, we finally got that water on the flipside and were able to release that water later on. And yes, we did meet the biological opinion flow requirements. So results for this year are OK and certainly further cooperation will be needed next year.

At lunch I was handed some information that shows that Elephant Butte and Caballo are right now at about 7 ½ percent capacity, that is not much water. If we look at other reservoirs in the basin, they are almost in as bad a shape. I will tell you that is not very encouraging. Although on my way here this morning,

I was delayed because of a snowstorm in Denver, so maybe there is some hope.

It is in all of our best interests to cooperate on minnow flows, deliveries to the Pueblos, and the deliveries to the district shareholders, both cities and irrigators. If we fail to take proactive steps to cooperate collectively, we lose a lot of our ability to plan for the management of that water in the future. Certainly the *Minnow vs. Keys* case brings it to a point. Further detrimental judgments, I don't know where that is going to go, but piecemeal litigation issues are very hard to work with, especially when we have a lot of people trying to do the right thing. Ongoing collaborative consultation is the name of the game for us, because without having everyone at the table trying to figure things out, I don't think we have a chance.

We were very pleased that Governor Richardson asked the federal government to be at the table to discuss long-term solutions for the river. We are looking forward to the continuation of those discussions. I know from my perspective, the talks initiated by the Governor have created the foundation for further cooperation among all the interests on the river.

Let me talk just for a minute about the Pecos River. Certainly over the past couple years there has been a lot of focus on the Middle Rio Grande, but another clear example of how collaboration and consultation have been successful between competing stakeholders can be seen in the Pecos River Basin. It has actually contributed to a non-jeopardy biological opinion from the Fish and Wildlife Service for the management strategies on the river. In 2003, the Pecos River team, comprising representatives from Reclamation and Fish and Wildlife Service, worked closely together to develop creative solutions in water management, but also to improve the working relationships with the State of New Mexico. It was successful because collectively we were able to focus on the needs of the species and on the hydrological reality that was brought on by the drought. Certainly while there was not a full delivery of water for the irrigators, there was a consideration of all the interests in that process. The Pecos River team also worked with Fort Sumner Irrigation District to reach a multi-year agreement on fallow land to leave water in the river for the upper reach critical habitat needs that have been identified. As part of the agreement, the State of New Mexico and the Carlsbad Irrigation District agreed to a proposal to provide a quantity of water at Ft. Sumner to be released for river habitat. An equal amount of water

will be pumped from the wells in the Carlsbad District. I think the results of these efforts were stellar. They were even recognized in the Senate Committee report findings: "The Committee is pleased that the Bureau and the State of New Mexico have forged a good working relationship with regard to the contentious issues relating to the Pecos River."

The collaborative efforts going on in the basins here in New Mexico are getting attention outside of the state. I think the drought has brought that about and how we deal with some of the critical times and flows are bringing some of our interests together very well.

Let me talk about another success this year at Navajo Dam on the San Juan River shortage share. There has been an agreement reached there that has been described as nothing short of phenomenal. In the San Juan Basin in New Mexico, in May of 2003, a group of ten water users along with the New Mexico Interstate Stream Commission, Fish and Wildlife Service, and Reclamation developed a cooperative solution on how to deal with a potential situation that they had never been in before. Since the construction of Navajo Dam, there had never been a situation where the water supply was less than the demand in a particular year. Those ten entities represent two Native American tribes, both the Navajo and the Jicarilla Apache, three power production companies, two of them are coal fired and one is a coal mining company, a municipality, and four irrigation districts. All of those folks got together and even with that bleak water supply outlook, they looked at the big issues facing all of them. Those issues included: ongoing adjudication of the water rights in the San Juan; the Navajo Nation's unsettled water rights claims; the absence of measurement structures for most diversions; the lack of administration on the river; a lot of legal opinions on whose water right permits are better than others; and diversion records. Then throw into that environment a general distrust of the state and federal governments by all attendees. To meet the endangered species requirements that were before them, those folks put aside big problems. They honed in on immediate needs and their efforts bore tremendous results.

They worked very closely throughout the process with Reclamation and with the Interstate Stream Commission. And to do that, like I said, they set aside those big issues to deal with the immediate issues. That does not mean that the big issues went away; they are still out there. However, maybe by being able

to deal with the immediate issues we can approach some of the big issues that face us down the road. The big issues deal with some of the same type of cooperation. They were able to implement an agreement that allowed all water users to get through a very dry year. Inflow and outflow this past year was 38 percent and all those users got by with almost a full supply. It certainly was not as much as every one of them individually would have liked to see, but it got them past a very dry year. The Secretary's four "C's" were what made that happen without somebody out there preaching the four C's: Conservation through Consultation, Cooperation and Communication. It worked very well. We are now working with those same parties for a similar agreement in 2004 and our folks from Durango, Fish and Wildlife, and Interstate Stream are to be commended on that effort.

That brings me to another topic that we have talked to a number of folks about already, and that is the *Water 2025* effort that is underway in the Department of the Interior across the western United States. Its main thrust is trying to reduce conflict and trying to meet those future water requirements that we all have, and trying to stay out of crises work, in other words, trying to address water needs during crises. As we said in some of those meetings, the worst time to plan for a drought is when you are in one, and certainly we are in one, and it's the worst time to try to plan for it, although we have had to do a lot of quick steps here to meet our requirements. Secretary Norton recognized the need to avoid that crises and conflict when she started *Water 2025* this past year.

Across the western United States we have had ten *Water 2025* meetings, the latest one was yesterday, the first one was in June, and we had one here in Albuquerque in August where we had folks come in to tell us about how the water supply situation stands in that area and what we could do to address some of those needs and try to refine the projections that we had put together showing where those problem areas are. Across the West we had nearly 3,000 people attend those meetings and work with us on trying to see where those problem areas are, how we could address them, and how we can provide water for some of our needs at least 25 years into the future. I will tell you that our President supports this thing and in the request to Congress this year, he asked for about \$11 million dollars. The Conference Committee is meeting even as we speak, marking up our appropriations bill for next year and we are looking forward to having

some of that money to use as seed money across the western United States to get *2025* up and running.

Now for some good examples of *Water 2025* activities that are going on right here: water banking; some of the conservation measures that we have talked about all over the west; water transfers; and trying to get some of the old ways of doing business off the books so that it will be easier to protect our water while at the same time making water available for new needs. We are looking at desalination and trying to find ways to desalinate water cheaper. We are working closely with the Geological Survey and Sandia Labs on the Tularosa Desalination Research Facility project. Later in the program some of our folks are going to talk about that project.

Certainly collaboration and communication are a great part of what we are talking about in *2025*. The other part of *Water 2025* recognizes state water rights, it recognizes tribal rights, it recognizes our contracts, our local governments, and their water requirements. All of those have a leading role in trying to meet water supply and management requirements in the future. I will tell you that it is a forward-looking document that all of us should refer to as we plan for our waters in the future. You heard at lunch about some of the challenges that we face along the border, some challenges that we had not even heard before today. Those are the kinds of issues we'll be facing 20 to 25 years into the future.

In a nutshell, *Water 2025* is common sense. It is a philosophy that says we have to work together to meet our future water requirements and none of us can do that by ourselves.

Let me close by saying that solving the water problems on the Rio Grande will require a clear understanding of the history of the River's uses and management. I do not think any of us can step back and say we are going to start over, or we are not going to pay attention to contracts, or we are not going to pay attention to compacts with other states, and so forth. We can not do that, we must recognize those requirements. The Department of Interior through the Bureau of Reclamation will continue to provide the overarching support and in some cases, infrastructure. We are trying to find ways to provide seed money to get some of the conservation measures started.

Change is upon us. Change is difficult and sometimes leads to conflict. Many of the conflicts that we are in now are due to changes in water requirements. But I will tell you that it is inevitable and if we do not deal with it, it will run over us. When

developing sustainable solutions for managing the Rio Grande, the big picture has to be recognized: how the upper parts of the basin fit with the lower parts of the basin, how the different users fit with each other, and how the different government agencies work with each other to enforce laws and provide water.

Progress will be slow. Just a couple weeks ago we were in Las Vegas with our Secretary where she signed the Quantification Settlement Agreement. After 70 years of arguing on the Colorado River, the settlement once and for all puts to rest that division of water on the Colorado. It took 70 years to get that done. We do not have 70 years for the Rio Grande but it is not something that we can take care of overnight. As *Water 2025* points out, we are in it for the long haul. There is no silver bullet and we look to all the agencies with which we work to help us get there.

It is my pleasure to be here. I will be here the rest of today and tonight. I look forward to talking with you on your ideas concerning *Water 2025* and some of the things that we can do together to solve the water problems on the Rio Grande and all of New Mexico.