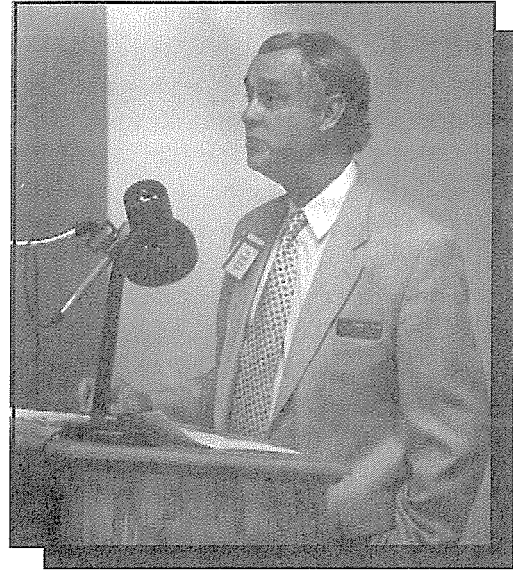


Tom Turney's New Mexican roots go back to Jornada del Muerto northeast of Las Cruces where his grandfather settled in the 1880s. A professional engineer for over 20 years, Tom is licensed in the fields of civil, electrical, sanitary and architectural engineering and is registered in New Mexico, Colorado and Arizona. He received his bachelor's and master's degrees from New Mexico State University. Before becoming state engineer, Tom worked for many cities in northern and central New Mexico as well as with the Mescalero Apache and Navajo tribes on a variety of water-related projects, including water and sewer infrastructure improvements, environmental assessments, flood and drainage research and design, and water rights transfers. As state engineer, Tom assumes an enormous workload and responsibility as, by statute, he has general supervision of the waters of the state and of the measurement, apportionment and distribution of those waters.



UPDATE ON NEW MEXICO WATER ISSUES AND WHAT IS HAPPENING IN THE NEW MEXICO STATE ENGINEER OFFICE

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My assigned topic this morning is to give you an update on New Mexico water issues. I will touch on three specific areas—application processing, adjudications, and legislation, and lastly I'll address a few interstate water issues.

First, let's discuss changes the State Engineer Office (SEO) is instituting concerning application processing. When an application for a change in place of use, purpose of use, point of diversion, or an application for a new appropriation is received by the SEO, a legal advertisement is prepared by the Water Rights Division staff. The advertisement is checked for accuracy by the applicant and subsequently published in a general circulation newspaper. The water rights staff will place the application into one of two

stacks: if a protest is received, the application goes into the protested application stack; if the application is not protested it will go into our non-protested stack. About 5 percent of applications we receive are protested, about 95 percent are not.

The backlog of protested applications has been growing for many years. There are a variety of reasons for the backlog—lack of basin criteria, nonassignment of a hearing officer, or often we receive a request from the applicant that the application not go forward to the hearing.

We are making changes in the protested application process. A full-time hearing unit has been established. We are advertising, both within and outside the office, for people to staff the unit. If you

are interested in working for us, stop one of us from the State Engineer Office and we will tell you what you need to do to get on the list of people we are considering to fill the unit. The unit will consist of three people—an attorney, an engineer, and an administrator. The statute calls for a hearing examiner to be knowledgeable in water law, water engineering, and administrative hearing procedures. Because of the difficulty in finding an individual experienced in all three areas, I intend to appoint both the attorney and the engineer to conduct hearings jointly. The administrator will be in charge of tracking the hearing process—dockets, schedules and places for the hearings—and answering general questions the public has about the process. We have developed rules and regulations for the hearing process and copies of that process are available on the table at the back of the room. The rules and regulations have been mailed to approximately 1,400 interested parties. A public hearing was held day before yesterday on the regulations. The record will be held open until October 15 at 5:00 p.m. to allow additional comment time.

The process includes several unique provisions:

- The procedures for the hearing will conform to the requirements of due process but the Hearing Examiner does not have to conform specifically to the requirements of the New Mexico Rules of Civil Procedure or the Rules of Evidence in each case.
- Hearing deposits have been reduced from \$300 per day to \$150 per day if the parties are willing to accept a tape recording of the proceeding. However, if either party wants a court reporter, the deposit is increased to \$300 per day to pay for the court reporter.
- Parties may be represented by an attorney or may appear *pro se*, that is—individuals can represent themselves. Corporations, unincorporated associations, or partnerships must be represented by an attorney. (At Tuesday's hearing, lots of comments were received on this subject.)
- Within 60 days after an applicant files a request for a hearing, the Hearing Examiner will schedule a pre-hearing conference.
- Deposits will be due five days prior to the pre-hearing. If an applicant fails to make the deposit, the application will be denied. If there is only one protestant and he or she fails to make the deposit,

the hearing will be vacated and the application will be acted upon as if no protest had been filed. If there is more than one protestant, and at least one protestant has submitted the required deposit on time, the Hearing Examiner will proceed to bring the matter to hearing. At the pre-hearing conference, the Hearing Examiner will identify those protestants who have failed to submit the deposit and accordingly dismiss their protests.

- A significant problem has arisen in recent years with applicants filing an application, but then requesting a delay in the hearing. This delay dominos other applications. All subsequently filed applications, both protested and non-protested, can be delayed, often for years. Under the new rules, should the Hearing Examiner determine that an applicant has failed to meet their obligation to defend their application by timely participation in the administrative hearing process, the Hearing Examiner will deny their application.
- We further intend to reduce the number of frivolous protests. We are no longer accepting protests that simply state that the protest is made because the applicant will impair existing rights, be contrary to conservation within the state, or be against the public welfare of the state. Instead, as many of you in the audience today have discovered, we are enforcing a provision of state law that states that before a protester has standing, he must substantially and specifically state how he will be affected by the granting of the application he is protesting.

Simultaneously, while we are addressing the backlog of protested applications, we also are addressing the approval process. As many of you here this morning are aware, the process is lengthy. I continually get complaints that it takes years to get a simple unprotected application approved. People who come into the office are told it may take only 30 minutes for an application to be reviewed for approval, but it will take six months to a year before you can expect written approval. Many times, applicants are refused even a rough estimate of time for the approval process. Clearly, this is unacceptable.

The workload of the Albuquerque office is growing. As personnel resign from other district offices around the state, the vacated positions will be carefully examined to determine if the positions can be

reassigned to the Albuquerque office. All ground-water applications for north-central New Mexico historically have been handled by the Albuquerque office. Three months ago, we changed our procedures. Now, if you have an application from an area north of Cochiti Lake, you will need to work with the Santa Fe office. This action should additionally relieve Albuquerque personnel to handle Middle Rio Grande issues.

We intend to give more line approval authority to district offices. Fewer applications will be sent to Santa Fe for review and approval. We will be developing new written policies and criteria for office personnel to follow. I have brought several copies of our new policy for the Tularosa Basin. Applications from this area have been awaiting action for almost 15 years because we have had no evaluation policy. We will now be approving or denying these pending applications. The policy is unique—it allows mining, but reserves a portion of the water for future generations. It requires conservation—metering is required on all diversions, the applicant must implement best management agricultural or municipal practices, and it allows only the consumptive use portion of the water right to be changed to a new location or to a different purpose.

In the near future, we will be issuing new application forms. Currently, we have over 24 different forms. Hopefully, we can reduce the number of different forms. The forms' formats will be modified to allow continuity of required information as much as possible.

To accelerate the time in which it takes to evaluate an application, we are going to be updating our rules and regulations. You may be familiar with the SEO's little yellow book on surface water rules and regulations; many of you are well aware of its date of publication - 1953. As an example of the outdated requirements in the yellow book, a filing map exactly 24" x 36" on which is drawn a one-inch margin using a good quality permanent black waterproof India drawing ink is required. The book was written at a time when all drawings were done by hand. We now have computers and must recognize the limitations and abilities of computer plotters.

The SEO will begin implementing changes required by new state archive laws. You will be seeing SEO rules and regulations published in a new format.

The rules and regulations for the hearing procedures I spoke of a few minutes ago are in the new format. The next set of rules and regulations we will be promulgating will be related to the drilling of wells. The current well drilling rules were developed in the 1960s. Drilling techniques, equipment, and materials have evolved over the last 40 years. Steel or iron casing is no longer necessarily a preferred material as they can rust and deteriorate. PVC materials are readily available.

The law requires us to maintain a file of names and addresses of individuals, professionals, agricultural or other groups having an interest in the promulgation of new, revised or proposed regulations. If you are not already on our mailing list, but would like to be, please fill out the appropriate form at the registration table.

About two weeks ago, some members of my staff and I met with Tom Udall, the State Attorney General. He told us that he was proposing to issue a formal opinion on instream flows. Unfortunately I can't give you his exact words as he has refused to share his opinion with us. But my interpretation of the general gist of the opinion is that there is nothing in state law to prevent the State Engineer from recognizing an instream flow as a beneficial use. I thought this opinion was going to be issued last week, but it wasn't. Instead, a group of acequias associations met with Mr. Udall and expressed their thoughts and frustrations on his proposed opinion. If you have thoughts on the issue, you also may wish to convey your ideas to Mr. Udall.

Next, I would like to talk briefly about the status of certain adjudications. The San Juan Adjudication has been reopened to address the Jicarilla settlement. Former Supreme Court Justice Stanley Frost recently has been appointed to the case. Three months ago, he held a status conference involving the rights of the Jicarilla Tribe in the basin and he told the state and the parties to work toward reactivating the adjudication. He asked the participants for proposals to amend various rules of service and may be proposing changes to the Supreme Court to make the process less costly and more efficient.

On July 23, 1997, about two and a half months ago, Governor Gary Johnson and Navajo Nation President Albert Hale entered into a historic government-to-government agreement to determine if a

negotiated settlement to Navajo claims on the San Juan River is feasible. We are hopeful that serious progress can be made on these negotiations toward a final determination of Navajo water rights. A negotiated settlement will save years of time and effort and may be the only way to feasibly settle these claims. Included in the discussions, among a host of other issues, will be the Navajo Indian Irrigation Project and the San Juan-Chama Diversion Project.

Moving onto the Lower Rio Grande, I would like to touch on two lawsuits. We now have two suits in the Lower Rio Grande: one filed 10 years ago in State District Court, the other filed this past June in Federal District Court. Multiple concerns appear to be driving the federal lawsuit. The United States, acting through the Department of Justice and the Bureau of Reclamation, wants control of the state's public waters in this area. They did not like the rulings originating from New Mexico District Court.

This federal lawsuit may be the most costly water suit the state has ever experienced. People have stated repeatedly that the \$15-\$20 million dollars spent on the El Paso-New Mexico issue was costly. I would predict that the El Paso suit may end up looking like a minor blip on the radar screen compared to this recently filed federal suit.

The suit appears to claim that the United States is the owner of approximately 930,000 acre-feet per year from surface water sources, 930,000 acre-feet per year of water from return flows, and 930,000 acre-feet per year of water from inflows. Whether it is for a total of 930,000 acre-feet from all three sources or a total of 2.7 million acre-feet per year of water depends upon who one talks to at the Bureau of Reclamation. The definition of inflows varies depending again upon who you visit within Reclamation, but in all probability includes all tributary rivers, arroyos, and all the groundwater of the region of lower New Mexico and adjacent Texas located along the Rio Grande.

Essentially, the suit appears to want to quiet title all surface water and groundwater between Elephant Butte Reservoir and Ft. Quitman, Texas. The owner of the water rights would be the United States.

Even before I was served with a copy of the suit, El Paso County Water Improvement District No. 1 (EPD) filed an answer, counterclaim and cross-claim. They stated that the United States, through its acts

and omissions, allowed and caused conditions to arise under which water users in the El Paso District suffered significant damages by the failure of the United States to properly allocate available stored Rio Grande Project Water and to account properly for water deliveries. Additionally, the United States had failed to take timely and cost-effective measures to prevent or compensate for the inequitable and discriminatory effects of requiring the EPD to take and use large quantities of increasingly saline and otherwise degraded return flows. The suit further states that the United States has permitted the Elephant Butte Irrigation District (EBID) and the owners of irrigated lands benefitted by the Rio Grande Project in the EBID to drill large numbers of shallow irrigation wells and to divert large quantities of groundwater hydrologically related to and tributary to the Rio Grande, thus diminishing the amount of Project surface water available for delivery to the EPD.

The potential impact of EPD claims to well owners in New Mexico are more than just significant. It could be devastating. Thousands of wells are at issue. If the EPD should prevail, the State of New Mexico could be forced to restrict groundwater pumping severely, restrict the future development of the extensive Mendenhall claims filed in the area, and not allow any future appropriation of groundwater.

Personally I am angry and frustrated with the federal suit. After it was filed in court, it was over a month before the suit was actually served at the SEO. None of the parties named in the suit currently have money dedicated for this purpose. This past legislative session, many of us worked hard to get the legislature to grant \$250,000 for funding of hydrologic studies in the Lower Rio Grande. These funds were to be spent in conjunction with the U.S. Geological Survey (USGS) which typically matches the State Engineer on a one-to-one dollar basis, thereby doubling the amount of work that can be done with state monies. Within the last few weeks, the USGS has informed us that they only have \$29,000 available for their share of this work. With this level of funding, it is a clear indication that the federal government has no money or even desire to actively proceed to understand the movement of water in the Lower Rio Grande.

We feel the federal suit is premature and improvident. Because of the way the suit has been structured, it could end up dragging in the Middle Rio Grande Conservancy District. We have heard four Indian pueblos are following the suit closely and one pueblo is poised to intervene immediately. The suit could end up pitting municipalities against irrigators, irrigators against Indians, large towns against small towns and northern New Mexico against southern New Mexico. It may further have the potential of disturbing the Rio Grande Compact. Two weeks ago Governor Bush of Texas wrote a letter to the Texas Attorney General asking him to intervene formally. Last week, we met with the State of Colorado and were surprised to find they too were considering intervening in the lawsuit. We will probably object to Colorado's entry into this suit.

During the first week in August, we filed a motion for a stay in proceedings. We wanted a federal mediator involved before the suit explodes into decades of motions, claims, and counterclaims. One part of our stay request stated that we could conceivably ask for an indemnification of no less than \$2 billion from the United States to protect the state against potential claims filed against the state as a result of potential counterclaims filed by other parties. We learned this lesson on the Pecos River.

Our request for the stay has been granted, but only for a four-month period, renewable if agreed to by all parties, on a two-month incremental basis. A federal mediator has been appointed. The stay went into effect on September 15 and the Department of Justice attorney has taken a month vacation. We want to use the four-month stay to develop an alternative dispute resolution or mediation process that will work both in state court and federal court.

One major issue at stake, and one which the United States apparently does not want decided in state court, is the ownership issue. In New Mexico, there are three possible owners of Project water rights—the United States, the EBID, or the farmers.

The issue is a constitutional issue—beneficial use is the basis and the measure of a water right. The State Engineer will argue that the farmer is the person who has put the water to beneficial use and therefore is the owner of the right. However, even though we argue that the farmer is the owner of the water right and has the right of disposal of that right, there are

other surrounding equitable issues which must be addressed. How will Elephant Butte Dam and Reservoir maintenance and operation costs be paid in the future? As water is transferred from agricultural use to municipal use, how will EBID be paid to operate and maintain its numerous conveyance and delivery works. The agricultural economy should not be allowed to be significantly hurt by increased costs due to a reduced revenue base. We are concerned that if the United States gets its hands on ownership of the water, it may redistribute or reallocate the waters without regard to existing water rights and legal and institutional constraints.

I mentioned briefly that the suit afforded the possibility of disturbing the Rio Grande Compact. I would also like to make a comment or two on some other issues recently raised in the context of the Rio Grande Compact. The Rio Grande Compact was entered into in 1938 between the states of New Mexico, Texas, and Colorado and approved by Congress in 1939. I have been asked questions at two recent legislative hearings concerning the Compact. The general conception is that because of the delivery obligations of New Mexico under the Compact, New Mexico ends at Elephant Butte Dam and all water below the Dam are under the jurisdiction of the State of Texas.

The notion of Texas having administrative jurisdiction over New Mexico waters is simply incorrect. The suggestion that Texas' jurisdiction might extend into New Mexico even one mile is totally contrary to our federal system of government under the Constitution of the United States. The laws of one state have no application outside the boundaries of that state. In fact, the U.S. Supreme Court has specifically stated, and I quote, that "Texas is without power to give extraterritorial effect to its laws." Therefore, the laws of Texas have no application in the State of New Mexico, and this includes laws creating or authorizing the positions and actions of Texas officials. Thus, Texas laws on their own authority can have no effect along the Rio Grande in New Mexico.

The Rio Grande Compact created a commission comprising representatives from the three states and a U.S. representative who serves as chairman without voting power. The Compact tightly limits the authority of the Compact Commissioners. The jurisdiction of the Commission extends only to the collection,

correlation and presentation of factual data and the maintenance of records, and by unanimous action, to making recommendations to the respective states on matters connected with Compact administration. Additionally, under certain conditions, when there are low levels of water stored in Elephant Butte and Caballo reservoirs, the Texas Commissioner can demand release of waters from upstream reservoirs constructed after 1929. New Mexico can make a similar release demand upon Colorado reservoirs. This clause in the Compact allows the State Engineer of New Mexico to protect New Mexico's interests in the Rio Grande Project as well as New Mexico entities in the Middle Rio Grande valley. Similarly, to protect respective New Mexico and Texas entities in the Rio Grande Project, the Compact states that with extremely low storage levels in Elephant Butte and Caballo reservoirs, water storage in certain upstream reservoirs constructed after 1929 cannot be increased.

If the State of Texas is not satisfied with New Mexico's performance under the Compact, it might feel justified in seeking remedy in judicial enforcement of the Compact—specifically the U.S. Supreme Court. This original jurisdiction is the only jurisdiction that exists over an interstate dispute. There is no possibility of asserted administrative jurisdiction directly over any part of New Mexico by Texas authorities. This is, and always has been, very clear throughout the history of interstate relations.

The U.S. Supreme Court has held that the interstate allocation of water by judicial, equitable apportionment will be enforced, with the least interference possible in the internal affairs of the states involved. The administration of the Rio Grande Compact takes place through a Commission of limited powers, acting only through unanimous agreement of the three states, never by one state acting unilaterally on its own. And the Supreme Court has refused to find a greater incursion on state sovereignty that is expressly provided in a compact. Moreover, it is not unusual for deliveries under interstate compacts to occur at places other than at state lines. It has never been seriously contended, and it certainly has never been held by any court, that one state's administrative jurisdiction be extended into another state.

The New Mexico Constitution and case law is very clear. Natural waters flowing in streams and watercourses in New Mexico are public waters

subject to adjudication for beneficial use. State law gives the State Engineer general supervision of state waters and of the measurement, appropriation and distribution thereof. This is why the State Engineer has begun a hydrographic survey of the Lower Rio Grande. Through the survey's results, a determination will be made of the right to the use of the area's surface and groundwater. The final decree, which will set forth the priority, amount, purpose, periods and place of use of all adjudicated rights, will also instruct the State Engineer on how to administer the adjudicated rights.

To conclude this part of my discussion, I would like to refer to another idea regarding the Rio Grande Compact that I have heard recently—and that is the notion that there is a conflict of interest created by one person acting simultaneously as the State Engineer of New Mexico and also as New Mexico's Commissioner on the Rio Grande Compact Commission. Such a suggestion is ludicrous and unfounded. The issue of any conflict of interest has long ago been resolved and the legal status of the New Mexico State Engineer has been ratified and approved by the states of New Mexico and Texas and the United States Congress since 1939.

Now I would like to touch briefly on regional planning. I will do so only in the context of planning being used as a tool prior to or in connection with a proposed future adjudication. Suffice it to say, that the State Engineer is concerned over the fact that adjudications can take decades. The *Aamodt* case, north of Santa Fe, is now 29 years old—*Lewis*, the Pecos River adjudication, is pushing its 42nd year. The end of either case is not in sight. Yet without adjudication, the administration of the state's water resources is difficult at best. Only 10% of the state's water has been adjudicated.

Not knowing who owns how much water could ultimately stifle the economic growth of this state. As awareness of the importance of water increases, conflicts are going to arise which may prove to be regrettable. Until the courts can finish their adjudication work, a mechanism for allowing transfers of water from more traditional uses to growing municipal and industrial use must be found.

You may have heard of my recent call to action in the Middle Rio Grande. Bringing all stakeholders in the region's water to the table is essential. Then we

can discuss how much water is available and what are each other's needs. We can discuss whether there is a process of facilitated negotiation that will provide us with an integrated water resource management plan for the region. And if there is such a process, can it be done in concert or in lieu of traditional adjudication litigation that might take a hundred years to accomplish, assuming it could be accomplished at all? The option of not having a water management plan for the Middle Rio Grande is not an option at all. The middle valley is growing at a high rate. People need water. There must be an overall strategic plan developed on how to manage the area's finite amount of water. Yes, there is generally an adequate water supply today, but this will not always be so in the future.

Next, I will discuss legislative issues—what we have done and where we are going from here. We have had good success over the past two years with the legislative process. Open, frank discussions have occurred regarding changing existing water law. I personally have learned the importance of considering even small changes. This past legislative session, I proposed elimination of wording in a statute that required Indians to render their services in cleaning out certain acequias. The statute, as was told to me, had its origins after Geronimo was captured and sent to Fort Sumner in 1868, so that he and his people could help construct the high line canal. Easy, I thought, there would be no discussion, slavery went out after the Civil War. I foresaw clear sailing through both the House and the Senate.

Boy, was I wrong. The acequia associations were very concerned and expressed their thoughts and opinions about the impact of such a change. Yes, in the end we got the offensive language eliminated, but not without substantial rewriting and modifying what I had first proposed. Water rights statutes in this state are very old. Water rights are considered private property rights. People are very protective of their private property.

This past session, we proposed language that would give the State Engineer certain enforcement powers to better manage the state's water resources. The proposal traveled through both chains of House and Senate committees but failed to be brought to the Senate floor in the final minutes of the session. This coming session, we will reintroduce this bill.

This past session, a lot of legislation was introduced related to conservation. None passed. This year, we will, in all probability, introduce our own conservation legislation. And if not this year, we will definitely introduce it in the following session.

Although during the last two legislative sessions money has been tight, we have not had our budget reduced. In fact it has been slightly increased each year. This is contrary to the trends of many other state agencies whose budgets have been left flat or reduced.

Before I conclude, I thought you might be interested in hearing a bit about interstate water issues. A month ago, staff and I traveled to Austin, Texas to discuss pumping from the Ogallala or High Plains Aquifer just east of here, along the Texas/New Mexico border. The meeting was a positive first step. Texas agreed to share water data with us. Ultimately, New Mexico would like to develop a long-term water management policy with Texas. Mustafa Chudnoff from the SEO will be talking later this afternoon on the effects of pumping along the border.

The Costilla River, governed by the Costilla Compact, has become controversial over the past two years. The Costilla Compact regulates the flow of a small stream that originates in northern New Mexico near the small village of Costilla. The river flows out of New Mexico into Colorado and back into New Mexico before it discharges into the Rio Grande.

In recent years, yearly Costilla Compact meetings have been very heated. Some residents want water running in the river year round. Other residents complain that their main canal is being plugged with debris in early spring, thereby delaying early deliveries of water. Others have voiced concerns that one property owner in Colorado may be using in excess of 12,000 acre-feet to irrigate approximately 800 acres of land.

To address these concerns, this past fall we began a post-irrigation season inspection of the major Cerro canal to see if there is silt and debris that could be removed prior to turning out the water into the canal the following spring. We conducted an onsite survey with Colorado to determine if additional gates are needed to prevent unauthorized diversions. We also discussed if there were other actions that could be taken unilaterally to distribute waters more efficiently and equitably. We have met with staff from

the State of Colorado and they have accused New Mexico of Costilla Compact mismanagement. We are committed to understanding the past and future administration of this compact. We want to ease tensions now developing between the two states over the river and avoid a visit to the U.S. Supreme Court.

Concerning the Animas-La Plata area, you have probably seen numerous articles in newspapers over the past few months about the Animas-La Plata Project. There is an ongoing process initiated by Governor Roy Romer and his Lt. Governor, Gail Schoettler, that has introduced two alternatives—one from the Project proponents and one from the opponents. A meeting was held two months ago on whether there was a way to allow the process to proceed. Project opponents have refused to attend a meeting scheduled for October 4. The meeting was originally set aside to allow each side to discuss their respective proposals. The opponents indicate they need more time to analyze the alternatives. The meeting, however, scheduled for this coming Saturday, will continue as originally set, without the Project opponents making a presentation. The general feeling is that the Project opponents are not acting in good faith about attempting to resolve a project that has been on the books and intensely and heatedly discussed for over 40 years.

In the Animas-La Plata area, there are a couple of issues that have not appeared in newspapers but where tension is rising. Let me briefly describe them. The State of New Mexico is concerned over post-1948 permitted diversions in Colorado. The Upper Colorado Compact specifically provides that Colorado give recognition to first and prior rights to all uses of water occurring in New Mexico at the time of the signing of the compact. A year ago, during a prolonged drought in the area, the Animas River essentially ran dry for a short time. Concerns have been voiced by New Mexico irrigators that the reason the Animas ran dry is because post-1948 developed diversions in Colorado had been operating during the drought. These diversions deprived pre-1948 right holders in New Mexico of water. In January, we discussed this issue with Colorado. We again discussed the issue a week ago. Colorado has agreed to provide us with a list of their post-1948 diversions. We will be entering these diversions on a geographic

information system format and after doing so, will again meet with Colorado.

A certain amount of dissension has arisen along the La Plata River. The La Plata River begins in southwest Colorado, and flows south into New Mexico. The river flows into the San Juan River just west of the Farmington airport. The flow in the river is governed by the La Plata River Compact. The Compact requires that 50% of the flow, as measured at a certain upstream gauging station, be delivered at the New Mexico state line the following day. This is not happening. Colorado has restricted deliveries because they have determined that New Mexico does not have enough irrigated acreage along the La Plata River to justify the releases required under the Compact and it is refusing to deliver water to New Mexico in accordance with the Compact. Instead, Colorado is sending to New Mexico what they have determined to be a fair amount. This issue, along with the post-1948 diversions occurring along the Animas River in Colorado, also was discussed with Colorado. This issue must be addressed adequately if New Mexico is to benefit with the Animas-La Plata Project. Colorado has temporarily agreed to an annual meeting with New Mexico, probably in April shortly after the beginning of irrigation season, to discuss streamflow forecasts. At the meeting we will lay out the operating rules for the rivers. We are hopeful this approach will be useful in resolving management of both the La Plata and the Animas rivers.

In closing, I have enjoyed updating you on some of New Mexico's various water issues. As you have heard, water issues in New Mexico abound—I hope you have enjoyed a tasty sampling. Thank you.