

**OFFICE OF THE STATE ENGINEER
STATE OF NEW MEXICO**

IN THE MATTER OF THE REQUIREMENTS)
FOR METERING GROUNDWATER WITH-)
DRAWALS IN THE LOWER RIO GRANDE)
WATERMASTER DISTRICT, NEW MEXICO)

ORDER

WHEREAS, New Mexico law declares that the water of underground streams, channels, artesian basins, reservoirs or lakes, having reasonably ascertainable boundaries, belong to the public and are subject to appropriation for beneficial use, NMSA 1978, § 72-1-1; and

WHEREAS, the State Engineer has a statutory responsibility to supervise the measurement, appropriation, and distribution the waters of the state, NMSA 1978, § 72-2-1 in accordance with the prior appropriation doctrine, as established by New Mexico law, N.M. Const. art. XVI; NMSA 1978, § 72-1-2; and

WHEREAS, the State Engineer may adopt rules regarding the administration of water and promoting expedited marketing and transfers of water, NMSA 1978, § 72-2-8; NMSA 1978, § 72-2-9.1; and

WHEREAS, the unauthorized use of water to which another is entitled, or the willful waste of surface or underground water to the detriment of another, or the public, is a misdemeanor, NMSA 1978, § 72-8-4; and

WHEREAS, the State Legislature has recognized that the need for water administration is urgent, NMSA 1978, § 72-2-9.1; and

WHEREAS, the groundwaters of the Lower Rio Grande Water Master District are in hydrologic connection with the surface water system of the Lower Rio Grande; and

WHEREAS, a requirement for measuring and reporting ground water uses in the Lower Rio Grande Watermaster District will assist the State Engineer in managing and administering the waters of the Lower Rio Grande stream system; and

WHEREAS, measuring and reporting of ground water diversions in the Lower Rio Grande Watermaster District will promote expedited leasing and marketing of water by ensuring a high degree of accuracy in the determination of actual water use, and assisting in State Engineer analysis of impairment, public welfare and conservation issues; and

WHEREAS, this Order as set out below, providing for measurement and reporting of groundwater uses in the Lower Rio Grande Water Master District, will assist

the State Engineer in performing his statutory duties to protect existing water rights, promote expedited leasing and marketing of water, conserve water, and promote the public welfare by preventing the over-appropriation, illegal use and waste of water,

NOW THEREFORE, I, John R. D'Antonio Jr., State Engineer of the State of New Mexico, do hereby order metering of all groundwater diversions by totalizing flow meters in the Lower Rio Grande Water Master District, unless specifically excluded below. I further order that all metering devices be in place and operational no later than March 1, 2006. This date has been decided upon to provide adequate notice to groundwater right owners that meters are now required and to provide sufficient time for their installation so as to avoid hardship.

DEFINITION OF THE LOWER RIO GRANDE WATERMASTER DISTRICT:

The Lower Rio Grande Water Master District includes all lands within the Lower Rio Grande Underground Water Basin, Hot Springs Underground Water Basin and Las Animas Creek Underground Water Basin.

METERING OF ALL GROUNDWATER USES IN THE LOWER RIO GRANDE WATERMASTER DISTRICT: A totalizing flow meter, in accordance with the standards set out in this Order, is required for every ground water well within the Lower Rio Grande Water Master District, with the exception of wells that serve the household or domestic uses of a single household, or the irrigation of one acre of noncommercial trees, lawn or garden, or are used for the sole purpose of watering livestock in a grazing operation. Nothing herein shall limit the authority of the State Engineer to require, at a later date, that water uses currently excluded from the requirements of this order be metered. Nothing herein shall limit the authority of the State Engineer to require specific types of meters as a condition of approval for any permit granted by the State Engineer. If the State Engineer procures meters, they shall be purchased from the State Engineer subject to the State Engineer's funding terms. No owners of groundwater rights may divert from wells covered by this Order after March 1, 2006, unless such wells are metered in accordance with the specifications described in this Order.

INSTALLATION, MAINTENANCE AND REPAIR: The water rights owner shall be responsible for installing, maintaining and repairing the meter. The meter shall be installed in accordance with the manufacturer's specifications. The owner shall keep the meter in good working order so as to provide a continuous and accurate record of the amount of water withdrawn or diverted. If the meter is broken or not functioning in accordance with the specifications of this Order, diversion of water from that well shall be discontinued unless estimates of diversion can be made by hour meters or electrical meters associated with the well pump. Estimates using data from hour meters shall be made based upon the listed pump capacity. Broken or non-functioning meters must be repaired within 30 days of the time the meter broke.

REPORTING REQUIREMENTS: Within ten days after meter installation, the owner shall submit to the State Engineer a written record of the meter's make, model, date of installation, initial reading, units of measurement and multiplier (if any); information as

to the presence of an hour meter or electrical meter associated with the well pump; and the Office of the State Engineer file number for the well. The meter readings, and readings from the hour meter or electrical meter associated with the well pump, shall be reported on or before the tenth day of January, April, July and October of each year for the three preceding calendar months, unless otherwise ordered by the State Engineer. However, if a permit or license of the State Engineer requires more frequent meter readings, the terms of the permit or license shall control.

All reporting shall be either electronically through a meter data input system developed by the Office of the State Engineer, or in writing on a form acceptable to the State Engineer. Reports shall include the Office of State Engineer file number for the well, dates of reading, units of measurement and multiplier, if any. If a meter is serviced, repaired or replaced, the owner shall record the meter readings before and after such actions, and shall include the readings in the written report for the quarter in which servicing, repair or replacement occurred.

All overdiversions of water made in one accounting year shall be made up during the accounting year following the year in which the overdiversions occurred.

STANDARDS, SPECIFICATIONS AND GUIDELINES: Each meter shall be of a type acceptable to the State Engineer and shall be installed, maintained and repaired in a manner that is acceptable to the State Engineer. The following minimum standards apply to each meter:

- A. The meter shall be a totalizing flow meter with a rated accuracy of plus or minus two (2) percent of actual flow. The installed accuracy of the meter and any secondary equipment such as data recorders shall be within plus or minus ten (10) percent of actual flow. The meter shall be calibrated according to industry standards upon installation, and at least once every three years thereafter.
- B. The meter shall be installed, inspected and maintained according to the manufacturer's specifications.
- C. The meter shall contain sufficient recording digits to assure that "roll over" to zero does not occur within a one year period.
- D. The meter register or display shall record total volume and instantaneous flow rate or be capable of flow rate calculation, be non-resettable, and have a waterproof and tamperproof seal.
- E. There shall be no diversions between the wellhead and the meter.
- F. The meter shall be installed and maintained in such a manner as to prevent meter error, for example, due to the pipe being incompletely filled with water at the location of the meter.
- G. The meter shall be installed and maintained in such a manner as to prevent meter error due to the meter being too close to bends in the pipe or changes in pipe inner diameter. The meter shall be installed at a distance of at least 10 pipe diameters downstream from bends in the pipe or changes in pipe diameter.

- H. The meter shall be accessible for reading, inspection and testing by a representative of the State Engineer, including a duly appointed Water Master.
- I. The units of measurement and the multiplier, if any, for determining the total amount of water diverted shall be indicated on the meter.

The State Engineer may modify these standards, specifications and guidelines, or adopt additional standards, specifications and guidelines for meters and for their installation, repair and maintenance, or for other alternative measurement methods or devices, which shall be on file in his office.

SUPERSESION BY A COURT: In the exercise of his statutory authority to measure the public waters, the State Engineer shall consider this Order and any orders entered by a court of competent jurisdiction regulating the use of ground water. Where there is any inconsistency between this Order and the orders of a court of competent jurisdiction, the court's order shall control.

VARIANCES: When the strict application of any provision of this Order would be impracticable or would cause unreasonable hardship, the State Engineer may, at his discretion, grant a variance for a specific instance, provided a written request for the variance is filed with the State Engineer and the State Engineer finds the request justifiable. Alternative methods or devices for measuring water uses are allowable only upon written authorization from the State Engineer.

MODIFICATION OF THIS ORDER: The State Engineer may, at his sole discretion, supplement this Order to accommodate any specific proposals to implement metering of all groundwater diversions in the Lower Rio Grande Water Master District submitted to him by any entity responsible for compliance with, or assuring compliance with, the provisions of this Order. Decisions to supplement this Order will be made upon consideration of any Interstate Stream Commission staff comments after their review of such proposals and as verified by the Lower Rio Grande Water Master.

EFFECTIVE DATE: This Order shall become effective on the date of signature by the State Engineer. No water shall be diverted from any well in the Lower Rio Grande Water Master District after March 1, 2006 unless equipped with a functional meter as required in this Order.

WITNESS my hand and seal of my office this 3rd day of December, 2004.


JOHN R. D'ANTONIO JR., P.E.
State Engineer