



carryover for them into 2012). And, reservoir levels at Elephant Butte Reservoir would drop significantly, perhaps affecting recreation. I'd like to find a way to help New Mexico farmers while not significantly affecting the recreation economy at Elephant Butte and not in a manner that provides additional water to EP No. 1. EP No. 1 has enough water and there's no good reason to put water into their carryover account and have EBID pay the losses on that account for the next year. My staff will work to evaluate the request based on the April 1, 2011 snowmelt runoff forecast with those goals and issues in mind."

The relinquishment I proposed to Texas on April 19, 2011 was an attempt to help New Mexico farmers now while not significantly affecting the recreation economy at Elephant Butte Reservoir in the short-term or upstream New Mexico water users in the longer-term. As proposed, it would not provide Texas a windfall profit and would not perpetuate problems with the 2008 Operating Agreement that have been hidden, in part, by earlier relinquishments.

Yes, the drought is bad, but the primary reason for the low allotment to EBID district members is the 2008 Operating Agreement. A primary reason for my position on the 2008 Operating Agreement is out of concern for and to protect New Mexico water users, specifically including New Mexico farmers. For example, if the Rio Grande project were still operated the way it was most recently before the 2008 Operating Agreement, the current Project allocations would be:

- EBID = 172,500 af
- EP No. 1 = 130,200 af
- Mexico = 18,500 af

Instead, the current allocations are:

- EBID = 49,800 af
- EP No. 1 = 246,700 af
- Mexico = 18,500 af

To put the situation into better perspective, if the 2008 Operating Agreement were not in effect, EBID would now be able to provide its farmers over 13 inches of water as opposed to the 4 inches the EBID Board allotted on April 29, 2011.

I proposed relinquishments in 2008 and 2010, at EBID's request, in part to help Southern New Mexico farmers but also because EBID indicated they needed time to fix the 2008 Operating Agreement. New Mexico relinquished a total of 180,000 acre-feet and that water directly benefitted EBID and its farmers. But, those relinquishments also masked important, negative, impacts on the farmers when and if New Mexico is not in an Accrued Credit status.

Unfortunately, I have seen no significant changes to the 2008 Operating Agreement. The relinquishment I proposed on April 19, 2011 would have continued to provide help to New Mexicans, without contributing to the excessive reallocation of water that the implementation of 2008 Operating Agreement has brought about. The 30,000 acre-foot relinquishment would have allowed EBID to provide one full 6-inch irrigation allotment to its farmers (2-inches from relinquished credit water and 4 inches from EBID's

Mr. Salopek  
May 16, 2011  
Page 3 of 4

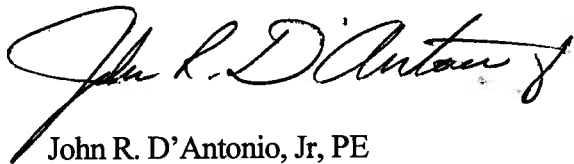
current allocation) starting May 1, 2011. Therefore, I was confused by the statement in your letter that the relinquishment “would not offer even one irrigation for district members”. With the Project water EBID already has allocated to it, the 30,000 acre-foot relinquishment would have done just that. And, in case you are not aware, the 100,000 acre-foot relinquishment would only have provided EBID district members an additional 1.5 inches.

Relinquishment of credit water can have significant effects on New Mexicans—both positive and negative. I seek to minimize the negative effects on New Mexicans. The relinquishment as proposed on April 19, 2011 would have helped a number of Southern New Mexico farmers without significantly affecting recreation at Elephant Butte Reservoir or long-term compact compliance for the middle valley of New Mexico. Additionally, it would have allowed time to evaluate and clearly describe and communicate the impacts of a second relinquishment. That process is standard procedure and has been for a number of years.

In your letter you make reference to the Rio Grande Compact in several instances. The Rio Grande Compact is silent as to the use of credit water once relinquished. Under Article VII of the Compact, New Mexico may propose a relinquishment but it is not effective unless accepted by Texas. Consequently, Texas has the option of accepting the New Mexico proposal, rejecting it, or proposing an alternative. I am not clear on your reference to an Allocation Committee. The Rio Grande Compact does not establish such a committee nor does, to the best of my knowledge, the 2008 Rio Grande Project Operating Agreement.

Once I receive a response from Texas to the April 19, 2011 relinquishment proposal, my office can move forward with the process outlined above and we stand ready to do so. Let me also assure you I will continue to do everything in my power to help New Mexico water users, including Southern New Mexico farmers. But, clearly, the current implementation of 2008 Operating Agreement is unsustainable and needs to be changed. If the operations are not changed, similar years will follow for EBID’s district members. If you have any questions, please do not hesitate to call me at 505-827-6091, Estevan Lopez at 505-827-6103, or Rolf Schmidt-Petersen at 505-827-6160.

Sincerely,



John R. D'Antonio, Jr, PE  
State Engineer  
Rio Grande Compact Commissioner for New Mexico

JRD/ke

Attachment

cc: Keith Gardner, Chief of Staff, New Mexico Office of the Governor  
Brian Moore, Deputy Chief of Staff, New Mexico Office of the Governor

Henry Valera, Constituent Services, New Mexico Office of the Governor  
Rick Perry, Governor of the State of Texas  
EBID Board of Directors thru Gary Esslinger, EBID Treasurer-Manager  
Pat Gordon, Rio Grande Compact Commissioner for Texas  
Herman Settemeyer, Texas Engineer Adviser  
Estevan Lopez, Director, New Mexico Interstate Stream Commission  
Amy Haas, General Counsel, New Mexico Interstate Stream Commission  
Rolf Schmidt-Petersen, New Mexico Engineer Adviser  
Steve Farris, Water & Utilities Director, New Mexico Office of the Attorney General  
Buford Harris, Commissioner, New Mexico Interstate Stream Commission  
Chuy Reyes, General Manager, El Paso County Water Improvement District No. 1  
Dick Wolfe, Rio Grande Compact Commissioner for Colorado  
Craig Cotten, Colorado Engineer Adviser  
Mike Hamman, Albuquerque Area Manager, Reclamation  
Filberto Cortez, El Paso Office Manager, Reclamation