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State Engineer Announces Public Review of Proposed Rules and Regulations Concerning Supplemental Wells Within the Carlsbad Irrigation District

(CARLSBAD, New Mexico) – New Mexico State Engineer John D’Antonio announced today that he has started the process to regulate over-diversions from supplemental wells located within Carlsbad Irrigation District (CID).

The proposed regulations were posted for review in each of the district offices of the State Engineer and were also posted on the State Engineer’s website at <http://www.ose.state.nm.us/ActiveWater> on March 4. The State Engineer listing of facts pertinent to the proposed regulations is included.

State law requires that this process begin with the State Engineer making the proposed rules and regulations available to the public. A summary of the regulations will be published in five newspapers across the state 30 days later. Between 20 to 30 days after that, the State Engineer will hold a public hearing in Santa Fe regarding the proposed regulations. He will then decide whether the proposed regulations should be changed in response to the public comments. Then the regulations will be finalized and put into effect.

Although these proposed regulations are related to Active Water Resources Management, they are also directly related to the settlement of Carlsbad Irrigation Project water rights signed by the CID, the United States, Pecos Valley Artesian Conservancy District, the State Engineer, and the New Mexico Interstate Stream Commission in March 2003. The settlement allows CID members to pump groundwater so that the annual surface water allotment plus the groundwater total no more than 3.697 acre-feet per acre per year. District Judge William Bonem approved this settlement on December 10, 2004, following dismissal of objections that sought to overturn the settlement. The objectors have appealed.

“We are committed to taking proactive steps toward the management of all New Mexico rivers,” said State Engineer John D’Antonio “Our first priority for the Pecos River is implementation of the Pecos River Settlement. The settlement requires regulation of over-diversions from CID supplemental wells and sets the pumping limits. I asked the committee of water users that negotiated the settlement to

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review an earlier draft of these proposed regulations. My staff made several changes in response to their helpful comments. I now am starting the process to issue the final regulation. I will consider any and all comments that I receive."

Some of the requirements of the proposed regulations include:

- The State Engineer's Carlsbad Basin Water Master will implement the requirements for supplemental wells used within CID and will enforce the regulations.
- Owners must equip all supplemental wells with functioning water meters.
- Supplemental wells can be used to pump no more than the difference between the annual surface water allotment and the full supply of 3.697 acre-feet per year, regardless of whether the surface water allotment is received.
- Supplemental well owners must pay back any over-diversions by selecting one of three alternatives.
- The amount of water that must be paid back is twice the amount of the over-diversion, except in the circumstance where the supplemental well owner could not prevent the over-diversion due to an additional surface water allotment later in the year after the owner has used his supplemental well right.
- Supplemental wells that have been used for an over-diversion may not be used again until the over-diversion is paid back.
- Use of a supplemental well is illegal under the following conditions: a well pending pay back of an over-diversion; a well with a tampered or faulty meter; or a well used to irrigate a location other than the approved location. Illegal use of a supplemental well is considered to be a separate over-diversion that requires separate pay back.
- Supplemental wells may be used to provide water to only the locations for which the groundwater right was authorized.
- The State Engineer will assess a \$250 fee to supplemental well owners that over-divert to cover the administrative costs related to repaying the over-diversion.
- The regulations will apply to over-diversions from supplemental wells starting in 2005.

The State Engineer will hold a public meeting on the proposed regulations in Carlsbad in mid April. After that, a public hearing will take place on May 6 in Santa Fe followed by a public comment period. Final regulations may likely be issued by the end of May.

The Office of the State Engineer is charged with administering the state's water resources. The State Engineer has power over the supervision, measurement, appropriation, and distribution of all surface and groundwater in New Mexico, including streams and rivers that cross state boundaries. The State Engineer is also Secretary of the Interstate Stream Commission and oversees its staff.

The Interstate Stream Commission is charged with separate duties including protecting New Mexico's right to water under eight interstate stream compacts, ensuring the state complies with each of those compacts, as well as water planning.