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Judge's Ruling Upholds the State Engineer's Authority to Adopt Active Water Resource Management Rules and Regulations

(SANTA FE, New Mexico) — Division II District Court Judge Matthew Reynolds of the Seventh Judicial District issued a ruling today that affirms the State Engineer's Active Water Resource Management Rules and Regulations.

"We are confident that we're on the right track," said New Mexico State Engineer John D'Antonio. "We're reviewing this decision to evaluate the need for an appeal on certain aspects of the judge's ruling that may need some clarification. We appreciate the judge's effort and validation of the Active Water Resource Management initiative and will keep pressing forward."

The Active Water Resource Management (AWRM) rules and regulations were finalized on December 3, 2004 in response to continuing drought and climate variability in New Mexico. Several years of severe drought in recent years brought to light the need for the State Engineer to be actively engaged in the field to administer the actual use of water. These statewide rules and regulations provide that, when necessary, junior water rights that would otherwise be curtailed will be able to temporarily acquire senior water rights from owners participating in the water rights marketplace in an expedited manner

"The ruling validated the State Engineer's administration of water rights in New Mexico, his authority to establish administrable water rights, and to do so prior to the completion of an adjudication," said the State Engineer's Chief Counsel DL Sanders.

"These rules and regulations will provide us with the tools to move forward with priority administration," said D'Antonio. "We are committed to taking proactive steps toward the management of all New Mexico rivers. Steps taken this year to develop Active Water Resource Management into a statewide program will help us to be ready for future drought cycles as well as enhance our progress to fully adjudicate and administer the state's water rights."

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AWRM refers to a broad range of activities, which include expediting the application transfer process, monitoring and metering diversions and limiting diversion of water to the amount authorized by existing water rights all within the prior appropriation system.

The State Engineer has already designated priority basin areas around the state, which include in order of priority: the Lower Pecos Basin, Lower Rio Grande, San Juan River Basin, Rio Mimbres, Rio Gallinas, Nambe-Pojoaque-Tesuque Stream System, and the Rio Chama.

The State Engineer has organized teams to implement AWRM in the areas of critical concern across the state and is in the process of: designating basin managers; developing and implementing schedules for creating water master guidelines; establishing a realistic budget of metering costs, guidelines, and field implementation and enforcement; developing a plan for communication with the public; hiring a water master for each area of critical concern; and providing training for water masters and other personnel.

The AWRM rules and regulations were challenged by Tri-State Generation and Transmission Association and the New Mexico Mining Association in 2005.

Copies of the final rules and regulations for Active Water Resource Management are available on the Office of the State Engineer's website at www.ose.state.nm.us

The New Mexico 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 New Mexico Interstate Stream Commission is charged with 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.

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