



**For immediate release:**

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## **Ft. Sumner Pipeline Application Will Be Decided on Evidence, Not Opinion Editorials**

**by John D'Antonio, PE, New Mexico State Engineer**

**(SANTA FE, New Mexico)** – This is a response to the editorial, “**Ft. Sumner pipeline needs a plug in it,**” which appeared in the *Santa Fe New Mexican* on March 19, 2010.

What is referred to as the “Ft. Sumner pipeline scheme” is the subject of an application to change the purpose and place of use of certain water rights. Since it has been protested, the application will be scheduled for a formal hearing. After the hearing, a decision will be issued on the application. Since State Engineer hearings are similar to court hearings, it would not be prudent for me to comment on the merits of any application until the facts and legal arguments are presented. The State Engineer application hearing process and procedures are complex. There is by no means any “scheme” or hidden agenda.

It is important that the public be confident in their public officials, and I feel it necessary to rectify any misimpressions your editorial might have created. The Ft. Sumner pipeline application is being handled in the same manner as every other protested application. The process is lengthy.

All Western states recognize that water rights are considered “real property.” Like land, water rights may be bought and sold. Unlike land, however, water rights can be moved or transferred. Anyone can apply for a water right transfer, and it is the duty of my office to consider the application. Properly filed applications are published in newspapers to provide notice to members of the public, public agencies and water rights owners of the opportunity to protect their interests by timely filing a protest.

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If timely protested, the application is referred to the State Engineer's Hearing Unit where it is placed on the docket or list of applications to be scheduled for a hearing date. Hearings are conducted by the State Engineer's Hearing Examiners which are required by statute to be knowledgeable in the water laws of the state, water engineering, and administrative hearing procedures, as well as in hydrology. Hearings are based on evidence and are conducted pursuant to the rules of civil procedure for New Mexico district courts. Parties are represented by attorneys.

The State Engineer's final actions are carefully considered, weighing the right of the owner to transfer water rights against the effects or impacts to other existing water rights or to the public welfare or conservation of water, should the application be granted.

The application in question, as with all applications, will go through the proper administrative process and will be accepted or rejected based on the evidence presented. Any party aggrieved by a State Engineer's decision can always appeal that decision to the appropriate district court.

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*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. 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.*

*535 total words*