

Addendum to the 2021 Engineer Advisers' Report
Texas Engineer Adviser
April 8, 2021

The Engineer Advisers to the Rio Grande Compact Commission (Commission) were unable to reach agreement on the accounting of water deliveries for 2020 at the 2021 Engineer Advisers' meeting held on March 1-5, 2021, via videoconference. The issue centered on how the evaporation losses on Credit Water are calculated and tabulated and are carried forward from the 2011 and 2012 Water Accounting. Three separate accountings were developed in 2014 and labeled as Method 1, 2, and 3. At the 2016 Rio Grande Compact Commission meeting, Colorado noted they will no longer follow Method 3. The Texas Engineer Adviser proposes that Method 1 be accepted and thus bases Texas' calculations on that method.

The history of this issue is addressed in a memorandum from the Engineer Advisers to the Commission dated March 23, 2006 (the "Memorandum"). As described in the Memorandum, the Commission has been inconsistent in the way it has tabulated Credit Water in storage based on evaporation losses during the year. There are times when the Commission has approved an accounting where Credit Water is held constant each month and the Credit Water is only reduced at the end of the year (Method 3), even though the calculation of Credit Water evaporation is a summation of monthly evaporation amounts. Under this method, whenever Usable Water amounts become negative and Credit Water was released, those amounts were repaid immediately as inflows occur. Also, there are times when the Commission has approved the evaporation of Credit Water monthly (Method 1); that is, when Credit Water and Usable Water are subject to evaporation as it occurs. Under this method, the Texas Engineer Adviser understands that Usable Water is not negative.

As understood by the Texas Engineer Adviser, Method 2 holds the Credit Water constant throughout the year. If there is insufficient Usable Water in Elephant Butte to cover all the evaporation losses on the Credit Water, Usable Water has gone negative. Method 2 then assumes that the negative dip into the Credit Water can never be repaid. The Texas Engineer Adviser was unable to find any instance where this method had been approved by the Commission. The Texas Commissioner believes that the intent and spirit of the Memorandum has not been followed by New Mexico and Colorado. Accordingly, Texas rescinded its support and approval of the Memorandum.

The Engineer Advisers presented recommendations to the Commission on this issue in 2006. The Commission approved the following three recommendations that:

The Commission direct that accrued Credit Water be held constant during the year.

The Commission direct the Engineer Advisers to meet if the total combined accrued Credit Water exceeds 150,000 acre-feet and Usable Water is less than a full allocation, or if the combined accrued Credit Water exceeds 50% of Project Storage, and to make a recommendation to the Commission regarding optimum use of water in Project Storage for Commission approval.

The Commission direct Reclamation to allocate or release Credit Water only as directed by the Commission.

The Engineer Advisers have not agreed on a recommendation, and the Commission has not approved a proposal to optimize the use of water in Project Storage. Therefore, since one of the methods historically used by the Commission was to tabulate evaporation of Credit Water on a monthly basis, Reclamation proceeded with this historical practice and allocated the monthly tabulated evaporation of Credit Water to Usable Water.

For calendar year 2020, New Mexico carried an Accrued Debit of 38,800 acre-feet according to accounting Method 2, the New Mexico Engineer Adviser's accounting methodology. Based on New Mexico's interpretation of Article VI of the Rio Grande Compact, without consensus or agreement of the Texas and Colorado Commissioners, New Mexico retained water, attributed to its Accrued Debit, of 36,406 acre-feet in El Vado Reservoir and 948 acre-feet in Santa Fe's McClure and Nichols reservoir system.

Due to the extreme drought conditions in the middle Rio Grande, the New Mexico Commissioner requested that the Commission provide emergency authorization to release the retained Debit Water in the attached letter dated July 14, 2020. On July 16, 2020, the Texas Commissioner consented to the emergency release in order to prevent impacts to the silvery minnow and catastrophic economic losses in the middle Rio Grande. He also requested certain conditions to ensure the maximum efficiency of the releases, as shown in the attached letter from Commissioner Gordon. The Colorado Commissioner acknowledged that Colorado, Texas, and New Mexico did not agree on certain aspects of the application of Article VI to the status of stored water when considering Accrued Debits but did not object to the release. The New Mexico Commissioner then issued a State Engineer Order on July 17, 2020, which contained requirements consistent with the conditions specified by the Texas Commissioner. On July 18, 2020, releases of the Debit Water commenced. A total of approximately 32,000 acre-feet of retained Debit water were released from El Vado Reservoir between July 18, 2020 and September 7, 2020. The Middle Rio Grande Conservancy District pledged to work with the New Mexico Commissioner during the 2021 spring runoff to develop an operations plan that will delay the start of their irrigation season and optimize deliveries to Elephant Butte Reservoir to decrease the Accrued Debit caused by the 2020 emergency release.

An additional accounting concern for Texas involves the Bonita Lateral. Texas does not believe that any water taken from Elephant Butte Reservoir and Caballo Reservoir for the Bonita Lateral (Bonita Water) is a delivery of Compact water to Texas. The Bonita Water is delivered to lands outside the Rio Grande Project. Texas believes that the historical method of Compact accounting, where Bonita Water is added to the usable release, is wrong and that the methodology is double counting the Bonita Water. Texas has requested an explanation for the Bonita Water from Reclamation and has not received enough information which would settle this issue. Texas believes that under the Compact, the accounting for deliveries of water to the Rio Grande Project should be accurate. This would require an official explanation for the Bonita Lateral and why Compact waters, which are counted as deliveries to Texas, can be diverted by

Reclamation for non-project users. Texas is ready to discuss this following receipt of an official response from Reclamation and looks forward to resolving this issue.

COMPACT ACCOUNTING 2020 - METHOD 1

The Texas Engineer Adviser has reviewed the streamflow and reservoir storage records and other pertinent data for calendar year 2020. This method, recommended by the Texas Engineer Adviser, reduces the Credit Water evaporation monthly. The scheduled and actual deliveries, release of Usable Water for the year 2020, and balances as of January 1, 2021, are as follows:

(a) Deliveries by Colorado at the State Line:

Balance as of January 1, 2020	900 acre-feet
Scheduled delivery	120,200 acre-feet
Actual delivery at Lobatos plus 10,000 acre-feet	121,700 acre-feet
Reduction of credits on account of evaporation	200 acre-feet
Accrued credit January 1, 2021	1,300 acre-feet

(b) Deliveries by New Mexico at Elephant Butte Dam:

Balance as of January 1, 2020	34,300 acre-feet
Scheduled delivery	275,600 acre-feet
Actual delivery	182,900 acre-feet
Reduction of debits on account of evaporation	1,200 acre-feet
Accrued debit January 1, 2021	91,500 acre-feet

(c) Project Storage and Releases:

Accrued departure (credit) as of January 1, 2020	2,465,800 acre-feet
Actual release of Usable Water	594,200 acre-feet
Normal release for year	790,000 acre-feet
Accrued departure (credit) as of January 1, 2021	2,615,800 acre-feet
Under-release capped at 150,000 acre-feet	

RIO GRANDE COMPACT COMMISSION

COLORADO

TEXAS

NEW MEXICO

CONCHA ORTIZ Y PINO BUILDING, 130 SOUTH CAPITOL, SANTA FE, NM 87501

TELEPHONE: (505) 827-6091 FAX: (505) 827-3806

JOHN R. D'ANTONIO JR., P.E.
STATE ENGINEER
NM RIO GRANDE COMPACT COMMISSIONER

Mailing Address:
P.O. Box 25102
Santa Fe, NM 87504-5102

July 14, 2020

Kevin Rein
Rio Grande Compact Commissioner
Colorado Division of Water Resources
1313 Sherman St., Room 818
Denver, CO 80203
Kevin.rein@state.co.us

Patrick Gordon
Rio Grande Compact Commissioner
State of Texas
4594 N. Mesa, Suite 100
El Paso, TX 79912
pgordon@eplawyers.com

Via email and U.S First Class Mail

RE: Request For Emergency Release of Approximately 38,000 acre-feet of Water New Mexico Retained Pursuant to Article VI of the Rio Grande Compact

Dear Commissioner's Gordon and Rein:

On Monday July 6, 2020 the Rio Grande Compact Engineer Adviser and Legal Advisor reached out via email to their respective counterparts in Texas and Colorado, requesting they consult with their Commissioners and Legal Advisors to consider an emergency release of approximately 38,000 acre-feet of water New Mexico has retained in storage to the extent of New Mexico's current debit in accordance with Article VI of the Rio Grande Compact.

This water is needed on or before Friday, July 17, 2020 in order to sustain flow in the river to maintain critical habitat for listed endangered species pursuant to the terms of the 2016 Final Biological Opinion for Non-Federal Water Management and Maintenance Activities on the Middle Rio Grande. We expect extensive drying in the middle Rio Grande in the upcoming weeks, which may cause significant damage to the Rio Grande silvery minnow population. Release of this debit water would provide an approximately 60-day supply of a minimum amount of water to help minnow survival. I am aware that this water will most likely not reach Elephant Butte Reservoir

Kevin Rein, Rio Grande Compact Commissioner
Patrick Gordon, Rio Grande Compact Commissioner
July 14, 2020
Page 2 of 2

and will not contribute to New Mexico's accrued delivery and could put New Mexico in further accrued debit next year.

Because of the urgency of the situation, please provide your written response by noon Thursday, July 16, 2020. Given the current Covid-19 restrictions in place in each state, we propose that the Commission's decision be memorialized at the next Compact Commission meeting. If you have any questions regarding the request, please do not hesitate to contact me directly. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "John R. D'Antonio Jr.".

John R. D'Antonio Jr., P.E.
New Mexico Rio Grande Compact Commissioner

JRD/kme

cc: Hal Simpson, Federal Chairman, R. G. Compact Commission
Page Pegram, NM Engineer Adviser



RIO GRANDE COMPACT COMMISSION

PATRICK R. GORDON
TEXAS COMMISSIONER

401 E. FRANKLIN AVE., STE 560
EL PASO, TEXAS 79901-1212
TELEPHONE: (915) 834-7075
FAX : (915) 834-7080

July 16, 2020

By Email: john.dantonio@state.nm.us

John R. D'Antonio Jr. P.E.
New Mexico State Engineer
Rio Grande Compact Commissioner
Concha Ortiz Y Pino Building
130 South Capital
Santa Fe, New Mexico 87501

Re: Request for emergency release of 38,000 acre feet of stored debit water held for Texas under Article VI of the Rio Grande Compact ("Compact")

Dear John:

This letter responds to your request to approve an emergency release of approximately 38,000 acre-feet of stored debit water retained by New Mexico in El Vado Reservoir under the Compact.

While Texas is not responsible for the silvery minnow, Texas understands that without the emergency releases of the stored debit water held for Texas in El Vado and other upstream reservoirs, the silvery minnow survival would be seriously impacted, possibly putting the Biological Opinion requirements in jeopardy. In addition, without the requested releases, New Mexico farmers in the middle Rio Grande would suffer extreme hardships and crop losses. Texas also understands that once released, this water is under control of New Mexico, so the State's cooperation is necessary to optimize the releases for these purposes.

Texas consents to your request for the release of stored debit water subject to the following conditions:

- only water that is necessary for purposes of saving the silvery minnow and assisting the farmers be released, and the water is conserved to the extent possible;

- irrigation diversions are taken as far downstream as possible to allow water to stay in the river further downstream to protect the silvery minnow and other wildlife;
- water is released only during dry periods, such that if the drought recedes and runoff occurs during this time period, the releases would stop to retain the debit water in the upstream reservoir for later release to Texas;
- irrigation return flows and drainage are directed back into the river to assist with the silvery minnow survival;
- any other water (such as San Juan-Chama water) that may become available is used first and/or to augment the debit releases; and
- any unreleased debit water will be available for release under Article VIII of the Compact in 2021.

As stated in Commissioner Rein's letter dated July 16, 2020, the releases and actions in this matter are not a concession of any position taken by the respective states regarding Article VI issues.

Sincerely,



Pat Gordon
Texas Rio Grande Compact
Commissioner