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State Engineer Issues Order for Administration of Surface and Groundwater Rights in Lower Pecos River

Santa Fe, NM –State Engineer John D’Antonio Jr., P.E., issued an order setting forth the framework for the administration of surface and groundwater rights in the Pecos River Stream System. The order informs all affected parties of the procedures under which the State Engineer will administer water resources by priority, should such administration be necessary in response to a future priority call.

In March of 2021, the Carlsbad Irrigation District (CID) passed a resolution calling for priority administration of the Pecos River. The State Engineer responded to the priority call by taking steps to prepare for priority administration, while also searching for more immediate sources of supply to alleviate the low supply conditions. Ultimately, priority administration was not necessary this year because of the combination of monsoon rains and augmentation pumping by the New Mexico Interstate Stream Commission (ISC) as required by the 2003 Pecos Settlement Agreement.

Under the 2003 Pecos Settlement Agreement, the ISC pumps groundwater to augment the CID’s supply in low-supply situations, and in exchange the CID agrees to not call for priority administration unless its supply is less than 50,000 acre-feet. The effectiveness of this agreement was proven this year, when the CID supply was threatened by extremely low reservoir levels. The ISC began augmentation pumping in October 2020 and augmented the CID supply by nearly 20,000 acre-feet by the time pumping was discontinued in November 2021. In combination with the ISC’s augmentation pumping, rainfall from summer monsoons raised the supply above 50,000 acre-feet. The settlement agreement has also proven effective at guaranteeing New Mexico’s continued compliance with the Pecos River Compact. New Mexico currently has a Compact credit of over 160,000 acre-feet.

Because of continued drought and projections for dry forecasts in the future, augmentation pumping by the ISC and summer monsoons may not be sufficient in future years to ensure that CID receives at least 50,000 acre-feet of supply. The order issued by the State Engineer will provide the framework to administer water rights by priority when such administration is

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necessary, until district-specific regulations are promulgated. The State Engineer continues to encourage parties to reach voluntary administration and shortage sharing arrangements as an alternative to priority administration.

The order was issued pursuant to the State Engineer's Active Water Resource Management (AWRM) authority under NMSA 1978, Sec. 72-2-9.1 and 19.25 Part 13 NMAC. These regulations allow the State Engineer to administer water rights by priority even when the water rights in question have not been finally adjudicated. The order is available for review at the Office of the State Engineer's website: <https://www.ose.state.nm.us/Orders/orders.php>

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 nine-member 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 investigating, conserving and protecting the waters of the State, in addition to water planning.

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