

TWENTY-EIGHTH NEW MEXICO FIRST TOWN HALL
**NEW MEXICO'S WATER: PERCEPTIONS, REALITY AND
IMPERATIVES**

Socorro, New Mexico

May 16-19, 2002

EXECUTIVE SUMMARY

A New Mexico where water is valued as the lifeblood of the state's rich cultural diversity and the basis for its economic engine. This is the vision of the 28th New Mexico First Town Hall. Establishing a framework for policy decisions that involve tough trade-offs is imperative, the attendees agreed, as is identifying institutional, technological and behavioral changes that will optimize the availability and quality of water.

New Mexico's water supply is finite and highly variable. Furthermore, in many areas it is not sustainable given present use levels, much less future needs. Also, most of the state's surface water is already spoken for, although most water rights claims have not been adjudicated. In some areas, legal rights to appropriate water exceed the amount of water available.

The Town Hall articulated four questions that pose significant challenges and offer opportunities to move New Mexico into a new era of active water management. The Town Hall declared that *balance* is a fundamental guiding principle: balance between sustainable supply and demand, growth and environmental protection, agricultural and municipal/industrial uses and rural and urban communities.

1. Who Has the Rights To Use New Mexico's Water?

Knowing who has the rights to use what water is essential for planning; yet the current adjudication process is slow, cumbersome and expensive. Increased funding for the Office of the State Engineer could allow for staff increases and database development. Further, parties should be encouraged to enter into negotiated settlements instead of litigation.

2. How Do Additional Factors Relevant to New Mexico Affect Our Water Resources?

Among other obligations, we must comply with Endangered Species Act standards on riparian habitat maintenance, honor Native American rights, honor the legal standard of prior appropriation of rights, conform to treaties with Mexico and meet rigid delivery schedules to fulfill our interstate river compacts. These factors are often the source of litigation; instead New Mexico should foster alternative, collaborative ways of handling such disputes. In addition, New Mexico should explore renegotiating interstate compacts, treaties and obligations. We must also find ways to store excess water above external delivery obligations in wet years.

3. How Will We Plan for the Future?

Planning for New Mexico's water needs is complicated by water supply variability from region to region, year to year and season to season. This reality is being addressed by current regional planning efforts, which engage stakeholders at all levels. The challenge will be to integrate regional initiatives into a statewide plan. Information is key to planning, and New Mexico needs additional resources to complete a water rights database. Finding funds to support these projects is a significant challenge, as is creating a plan that will balance the benefits of economic growth with the imperative to preserve traditional cultures and quality of life while remaining within projected supply.

4. How Can We Involve the Public in Addressing Critical Water Issues?

Diverse groups of people must be engaged; decision makers must be given tools; scientists must be trained. Agricultural users must be given resources and incentives to implement conservation and watershed rehabilitation programs. Better-informed citizens are more likely to participate in planning processes and help garner the support of others for decisions they help to make. Universities, the New Mexico Department of Education, the national labs and others might jointly convene public forums to debate priorities for regional and statewide water administration.

RECOMMENDATIONS

1. ADJUDICATE WATER RIGHTS FOR THE ENTIRE STATE WITH THE GOAL OF COMPLETION WITHIN THE NEXT 15 TO 25 YEARS

Enforcement of water rights and usage, protection against losing New Mexico's water to neighboring states and Mexico and an effective system for transferring water rights and for water banking all depend on an accurate accounting. To date, only a small portion of water rights claims have been adjudicated, so the Town Hall urges the following actions:

- The governor, legislature and judiciary should establish and fund procedures to determine the volume and priority dates of water rights, including Native American rights, by 2018, with first priority given to interstate streams.
- The legislature should authorize and fund the creation of New Mexico water courts to allow specialized judicial consideration of complex water rights cases and to improve the efficiency and timeliness of adjudications and administrative appeals from the State Engineer.

2. AGGRESSIVELY DEVELOP, PRESERVE AND PROTECT NEW MEXICO'S WATER SOURCES

The growing demand for water in New Mexico makes it imperative to supplement our finite supply with new sources and protect existing resources.

- Adequate resources should also be provided for New Mexico's legal defense against external threats.
- The legislature should authorize and fund the Office of the State Engineer to provide a comprehensive water model to determine quantities and projected longevity of our water resources.
- An entity, preferably already existing, should be designated to coordinate and implement water-related activities. A dedicated revenue stream should be established for this purpose.
- Conservation should be aggressively promoted; strategies could include tax incentives, water banking, public education and involvement, structuring water rates to provide incentives for conservation and conservation technologies.
- Watersheds and riparian areas should be rehabilitated, protected and maintained through comprehensive management.
- Current and developing technologies should be deployed for the purification of water of impaired quality.

- Methods for reuse of treated effluent for beneficial use should be researched and implemented.
- Building codes should be revised to encourage water saving and harvesting designs, such as water-collecting gutters, storm sewers and landscaping.
- Infrastructure and systems for conservation and more efficient distribution and waste collection and disposal should be upgraded.
- Existing consortiums of research institutions should be developed and enhanced to work on developing technology in evaporation, sensor technology, real-time data collection, desalinization, reinjection, watershed rehabilitation and weather modification.
- Water law should be aggressively enforced by priority and amount and those who illegally use water as well as those who damage water infrastructure should be prosecuted.
- Loss of entitlements should be prevented by placing full allocations to beneficial use of the San Juan-Chama Project water and Gila River water.

3. PROVIDE ADEQUATE FUNDING, APPROPRIATE ORGANIZATIONAL STRUCTURE AND NECESSARY STATUTORY LANGUAGE TO ENSURE IMPLEMENTATION OF ALL ASPECTS OF NEW MEXICO'S ACTIVE WATER RESOURCE MANAGEMENT

The Town Hall sees an urgent need to adequately fund and coordinate the activities of all state agencies and other entities involved in water management, including:

- water rights adjudication: administration and mediation
- water resources: data collection, supply determination
- water planning: regional, drought, conservation
- compliance issues (e.g., interstate river compacts, ESA, NEPA)
- interaction and cross-agency coordination
- providing accountability to the legislature
- providing technical assistance to communities to secure water rights and water supplies

These elements of water management currently are assigned to specific agencies. For those that are not, the Town Hall recommends:

- Add to the Interstate Stream Commission's statutory mandate to include explicit authority to acquire and manage water for environmental and quality of life uses.
- Support a State Engineer's forum to develop legislation in 2003 to address current loopholes in the permitting process, including unregulated domestic well development, lack of required metering for surface and ground water diversions and clarifying the purpose of impounding water for unregulated uses.
- Provide adequate funding of existing agencies to allow them to fulfill their statutory authorities.
- Provide resources to the OSE to exercise its authority to limit ground water diversions and require metering of domestic well use.
- Adequately endow the Water Trust Board and appropriate funds for water projects, especially to leverage federal funds.
- Avoid costly and lengthy litigation by having the 2003 legislature consider a joint memorial to the U.S. Congress asking that judicial agencies emphasize settlement of Native American water claims.
- Ask the state legislature for a joint memorial to encourage our congressional delegation to secure additional federal funding for our national labs and universities for water-related research and development.

4. CREATE A STATE WATER PLAN, INTEGRATING REGIONAL PLANS, NO LATER THAN DECEMBER 31, 2004

The Town Hall believes a comprehensive state water plan, reflecting significant public involvement, is a central tool for actively managing water resources. To this end, the Town Hall agrees that the legislature should mandate the creation of a state water plan, with its content elements defined, utilizing completed regional water plans to the extent practical. The Town Hall makes these further recommendations:

- Include in the mandate adequate funding for staff, consultants, quantification, database development and other expenses.
- Include in the plan mechanisms for implementation of recommendations, ongoing management of the resource and regular revisions and updates.
- Incorporate concepts of sustainability to ensure that short-term uses do not compromise our ability to meet long-term needs.
- Strengthen the existing regional water-planning template and create a state water-planning template to ensure stakeholder-driven public participation.
- Use the state water plan as a strategic umbrella, placing regional plans under it to generate a list of projects within the state framework, followed by prioritization of funding for projects.
- Provide in the plan model ordinances for small communities and templates for drought plans.
- Make public education an integral part of the state water plan.

The Implementation Team should also:

- ✓ Work with the media to ensure comprehensive, timely water-issue coverage.
- ✓ Recommend funding for public information officers and legislative liaisons at the Office of the State Engineer and the Interstate Stream Commission.
- ✓ Work with other entities in the state that can assist with public awareness.

5. CREATE A RECURRING REVENUE SOURCE FOR FUNDING THE OFFICE OF THE STATE ENGINEER, INTERSTATE STREAM COMMISSION AND WATER TRUST FUND

The Town Hall believes that a long-term revenue source, in addition to general funding, is needed for managing the state's water.