

2008 Rio Grande Project Operating Agreement
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History of the Rio Grande Project

- The Rio Grande Project (Project) was built starting in 1906 by the federal agency that later became the US Bureau of Reclamation (Reclamation).
- The Project stores water in Elephant Butte Reservoir and delivers surface water to parties in the United States and to the Republic of Mexico. The Project delivers:
 - To the Elephant Butte Irrigation District (EBID) in New Mexico and to the El Paso County Water Improvement District No. 1 (EP1) in Texas (together, referred to here as the “Districts”).
 - Up to 60,000 acre-feet/year to Mexico under a Treaty with Mexico.
- Until the early 1980’s, Reclamation operated the U. S. part of Project as a single system and delivered surface water equally to all Project lands in New Mexico and Texas (i.e., each acre of farmland received an equal amount).
- In the early 1980’s, title to the canals and drains of the Project in the U.S. were transferred to the Districts. As a result,
 - Reclamation began delivering water to the individual Districts, primarily at river diversion structures, but continued metering and monitoring.
 - Reclamation based its deliveries to the Districts on the historical relationship of reservoir releases to diversions. This relationship reflects the historical delivery efficiency of the Rio Grande Project.
 - The Districts took over responsibility to deliver water from the river diversion structures to the Project lands.

- In the early 1990's Reclamation handed over responsibilities for metering and measuring of water diversions to the two Districts.
- There were disagreements between the Districts and Reclamation over Project Operations.
 - A number of Operating Agreements were drafted during the 1980's, 1990's, and 2000's but none were signed by both Districts.
 - A number of lawsuits were filed over Rio Grande Project Operations.
- In 2002, the State of Texas threatened litigation with New Mexico over the quality and quantity of water it was receiving from the Project.
- The State of New Mexico (through the Attorney General, Office of the State Engineer, Interstate Stream Commission, and Environment Department) aggressively addressed the water quality allegation and indicated a willingness to discuss the water quantity issue.
- In 2007, Reclamation unilaterally implemented new operating procedures for the project.

2008 Operating Agreement

- In February of 2008, as part of confidential settlement negotiations, Reclamation, EBID and EPCWID signed an Operating Agreement and then collaborated to draft an Operations Manual. New Mexico was not involved.
- Changed Allocation Method:
 - Only EBID "pays" for anything that reduces the present delivery efficiency or Diversion Ratio of the Rio Grande Project, including such factors as drought, accounting credits, and groundwater pumping.
- The Districts get "carryover" diversion accounts:
 - These carryover accounts are new and are contrary to Reclamation's historic practice.

New Mexico's Concerns -

- Three years of operations have occurred. What we have learned, all from information provided by Reclamation, is...
 - EBID's Annual Allocation has been significantly reduced
 - From 2008 to 2010, EBID's annual Rio Grande Project allocations have decreased 149,160 to 189,110 acre-feet/year, or 30.1% to 38.2% less than its historical allocation.
 - Over the same period, EP1's annual Rio Grande Project allocations have increased 140,590 to 176,170 acre-feet/year, or 37.3% to 46.7% more than its historical allocation.
 - In 2011, Project allocations are even more lopsided – as of the end of May, EBID's allocation was 55,750 AF and EP1's allocation was 251,200 AF, 18% and 82% of the total US allocation, respectively.
 - We believe this reallocation from EBID to EP1 is significantly more than any impacts due to NM groundwater pumping.
 - This reduced EBID surface water allocation will lead to increase of groundwater pumping which will deteriorate NM groundwater natural resources and is not sustainable.
 - EBID is paying for Texas groundwater pumping impacts
 - EP1 needs to pay for all Texas pumping effects to the Rio Grande Project. Currently EBID pays for all the loss in the Rio Grande Project water.

- Carryover Accounts are primarily Paper Credits
 - They are generated, in large part, due to Reclamation’s system of credits NOT due to water conservation.
 - Therefore, if the reservoir is low, water needs to flow into the Elephant Butte Reservoir before any additional water can be allocated to the Districts. For example, it took over three months after the 2010 irrigation season to fill the Carryover Accounts belonging to the Districts.
- Documentation and Transparency Issues – A neutral party needs to collect and report Project data.
 - Many different parties collect and report data
 - No one checks all the data for quality and consistency
- In 2010, we learned that Reclamation did not do a rigorous technical analysis of the Operating Agreement even though they signed a Finding of No Significant Impact.
- The State of Texas has not signed off on the Operating Agreement. The Operating Agreement does not resolve issues amongst the two states.
- Bottom line – The Operating Agreement needs to be changed!

New Mexico Credit Relinquishment

- New Mexico’s Credit is 164,700 AF.
- The Article VII storage restriction of the Compact is in effect meaning Rio Grande water cannot be stored in El Vado, Nichols, and McClure reservoirs unless relinquishment credits are available.
- EBID, thru the Texas Rio Grande Compact Commissioner, asked twice for another relinquishment of accrued New Mexico Credit Water (in 2008 and 2010 NM relinquished 100,000 and 80,000 AF, respectively).

- The New Mexico Commissioner made a proposal in April that would have helped New Mexico farmers while not significantly affecting future middle valley Compact compliance or recreation at Elephant Butte Reservoir. And, it would not have given more water to Texas farmers (they have enough water).
 - That offer was refused by EBID and Texas
- New Mexico continues to seek ways to change the Operating Agreement and provide water to New Mexico farmers in the Lower Rio Grande without harming other New Mexicans.
- It is very important to NM that continued relinquishments not be used to prop up this unsustainable and inequitable Operating Agreement.