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Headline News

State's water issues a long-term problem

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Water issues in New Mexico are not going away, even if we experience record-busting rainfalls, said Susan Kelly, a water attorney with the Utton Center of the University of New Mexico School of Law. She was one of five panelists speaking about water at a conference Monday to help journalists report on the "complex, convoluted, and important" matter of water in New Mexico.

Although it doesn't seem obvious, "the Interstate Stream Commission and the State Engineer's Office need to think now about how to physically, legislatively and legally take advantage of higher water flows, if they come," she said. New Mexico has almost doubled its water usage in the last 35 years, absorbing 19.29 billion gallons in 1970 to 37.47 billion gallons in 2000, according to local utilities data published in 2003. At the same time, drought years that are considered mild by some hydrogeologists, have exacerbated the scarcity.

Add to the mix a bevy of competing interests and authorities that are influencing the allocation of water resources. The management of such a situation with "justice and liberty for all," as promised in our nation's Pledge of Allegiance, then grows increasingly difficult, it was stated.

"All waters of the state are public waters ... and water rights are private property rights" here in New Mexico, said Marilyn C. O'Leary, director of the Utton Center, who also teaches international water law at University of New Mexico.

There is a movement afoot globally to view water as a commodity to ensure reasonable price and access for all, she said. However, this emerging view of commoditization applies more to less developed countries, rather than the U.S., where the rule of law and private property rights are more clearly established.

Relative to the rest of the world, water rights here might look clear, but inside the state, water rights get muddled. For example:

- the history of agreements surrounding junior and senior water rights,
- historical water rights of the pueblos and acequias,
- interstate rights to the flow from certain rivers such as the Pecos,
- the conflict between protecting endangered species such as the silvery minnow and protecting agriculture, and
- the critical need for increased industrial and municipal water supply to grow the state's economy.

Panelists agreed lawsuits concerning water abound. The state Supreme Court ordered each of the state's 13 District Courts to name a judge to handle water rights adjudication and establish the Water Courts Division, according to the New Mexico Business Weekly.

The conflict surrounding federal protection of the silvery minnow and the ongoing conflict with the state of Texas regarding the Pecos River's waters were mentioned frequently Monday.

A federal judge ruled for the release of stored water to flow through the Rio Grande to preserve the habitat of the silvery minnow. The Pecos River Compact between Texas and New Mexico says New Mexico must deliver 50 percent of all releases from Sumner Dam and 50 percent of river inflows below the dam.

This year the state legislature appropriated \$20 million to acquire water to send to Texas in fulfillment of the compact.

O'Leary's comments Monday indicated this wouldn't be an effective course. "We have nine

interstate compacts, some that deliver water into the state and some that provide for water outside the state. You really don't want to get into a lawsuit over an interstate compact. It goes to the state supreme court, its lengthy, and goes on and on."

With New Mexico's population growth from 1.02 million to 1.82 million over the last 35 years, however, the pressure to hold onto whatever resources we have here in the state will intensify.



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