

“The Key Fact About Our Water - Demand Exceeds Supply” (OSE/ISC 2002)

Adjudication affects and is affected by drought, transfers, priority administration, banking, markets, reduction, compact compliance, treaty obligations, cultural values, environmental concerns -- for urban and rural residents in the Rio Grande Valley.

WHY ATTEND?

Can we get beyond the incendiary word — adjudication-- and find incentives for a comprehensive water accounting? Can reluctant stakeholders be convinced that such bookkeeping is in their best interest? How can the multi-million-dollar, multi-decade adjudication process be streamlined? Unless this fearsome subject is confronted and tamed, there will be no means of implementing key portions of our hard-won water plan, and still further reduced likelihood of regional sustainability.

Middle Rio Grande Water Assembly is a 501(c) (3) non-profit organization. The Water Assembly's purpose is to assure effective implementation of the Middle Rio Grande Regional Water Plan through an open, inclusive, and participatory process so as to achieve the common interests of the people and stakeholders of the region for a sustainable water future that balances water use with renewable supply in accordance with the stated goals of the Water Plan.

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The Middle Rio Grande Water Assembly

Invites You to Participate in

The 10th Annual Assembly

**Adjudication:
Curse or Salvation?**

Learning from others, what recommendations might we make to avoid previous pitfalls?

Saturday, June 10, 2006
Dane Smith Hall, UNM
9:00 a.m to 4:00 p.m.
Registration begins at 8:30

Registration Fee: \$10.00 at the door
continental breakfast & lunch is included

Free parking on Saturdays at UNM.
Campus map can be found at
<http://www.unm.edu/campusmap.html>

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Adjudication: Curse or Salvation?

Who gets to use what flows down the river or is pumped from the groundwater? More water rights exist to our fixed water supply than there is actual water. What kind of confrontations are on the horizon regarding the legal right to this utterly essential resource?

New Mexico's Constitution declares that in times of shortage, water will be administered by priority: those who have the oldest rights—those who used the water first—have seniority over later appropriators. On the early side are Native Americans and *acequia parciantes* who first coaxed water from the river or its tributaries to irrigate crops in valley floodplains. On the junior end are increasing numbers of urban residents in Albuquerque, Rio Rancho, Bernalillo, Los Lunas and Belen, who are often uninformed about the life-giving liquid that spills from their taps. Even as these rights change hands, ownership is still unclear.

The law presumes that the rights of all water users in a basin will be determined by a judicial process; that the date the right was perfected and the specific amount of water to which each user is entitled will be set forth in a legal decree; and that ranking each right according to priority will preserve peace among the basin's human inhabitants as well as the integrity of the hydrologic system.

But what if no judicial determination takes place? What if a set amount of water is subsequently parsed, divvied, and shuffled to new uses without ever ascertaining the rights of the system's senior users? Such is the current situation in the Middle Rio Grande (MRG), where the process of 'adjudication' has not begun, and where there are apparently no plans to initiate it in the foreseeable future. Instead, water transactions are handled

piecemeal by the State Engineer, who grants or denies requests to transfer water rights with no assurances: the validity of the transferred right may or may not be upheld in a future adjudication, leaving both senior and junior appropriators in jeopardy. Such failure could also be undermining federal endangered species and water quality mandates, as well as widespread efforts to preserve and restore the riparian eco-system. Worst of all, it may be erasing the options of future generations by saddling them with an impossible debt to the hydrologic system, and many more mouths than nature can provide for.

Why has adjudication been ignored in the MRG? State agencies generally cite the immense fiscal costs and time constraints that adjudication entails. It is clear that promptly addressing the issue of water right ownership is one of the key ingredients for implementing our regional water plan. Rather than ignore the situation, let's embrace it.

Participate in creating solutions

Implementing the plan is great time to get involved. We must ensure that our plan is put into action!

The role of the Assembly In Implementing the Regional Water Plan

Ever since its inception, the Water Assembly has initiated dialogues on difficult subjects. After submitting the Regional Water Plan in 2004, we tackled two controversial topics -- coping with the Urgent Shortfall Reality (§10.1.2 of the Plan) and discussing the fact that our water was over-allocated. Following tradition and the theme, this year we will be considering adjudication.

Chapter 10 of the *MRG Regional Water Plan* recommends:

R2-1—Adjudication and Water Rights Settlement - Identifying, quantifying and prioritizing water rights is paramount to better water management. Currently, the State Engineer uses the process of adjudication to accomplish this. It is recommended that this process be utilized in the region unless a more expedient, equitable, and less costly process is created. Alternative dispute resolution should be considered as an option. Furthermore, this plan recommends that the legislature appropriate and the State Engineer direct sufficient funds to prepare the necessary information, including hydrographic surveys, to identify, quantify and resolve priority ownership rights.

We can learn from others so as not to repeat their experiences. After a morning of learning, we will make recommendations as to how the process might be undertaken while avoiding the hazards seen in the past. Designing a less adversarial and less protracted process will be a difficult challenge. Please attend the Annual Assembly to help tackle it!

10th Assembly agenda includes:

- ◆ Welcome and introductions
- ◆ What is adjudication?
- ◆ What are the benefits and drawbacks?
- ◆ Pueblo Perspective
- ◆ Proposed NM Legal Construct
- ◆ Lessons learned from other basins
- ◆ What can we do?
- ◆ Elections

Speak for your interests!

Advocacy Groups will select their delegates to the Board for the coming year .