

Middle Rio Grande Water Assembly Board of Directors  
June 20, 2006

**10TH ANNUAL ASSEMBLY PLENARY DISCUSSION**  
***ADJUDICATION: CURSE OR SALVATION?***

Introduction

The discussions by the attendees at the Tenth Annual Water Assembly included many recommendations and advisory comments. The facilitator's notes are included below. This newly-elected Board of Directors, in reviewing the comments, should take this opportunity to build upon those ideas and suggestions. The Board's interpretation and instructions would in turn provide guidance to the Water Assembly and its Executive Committee in future actions taken.

The purpose of the Assembly 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.*

In general, the tasks have been aimed toward overall Plan Monitoring (mostly of governments), participation in regional groups and Education/Outreach to the general public on various water and plan issues, as summarized in the Annual Report. Other ideas abound if funding is found!

In light of the Recommendations, as well as the purpose of the Assembly, how might we accomplish what tasks? For instance, should the Water Assembly play any further role with respect to Adjudication? If so, what role should that be? Should we carry on with some of the Recommendations from the Plenary Discussion? What actions might we take? What might be the vehicle to do this - Community Conversations, an electronic bulletin, adjudication workshops, etc.? How should the Assembly start the process and proceed?

**FACILITATED GENERAL DISCUSSION**

Lucy Moore  
June 10, 2006  
1:45-3:00

From Agenda

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

Chapter 10 of the Middle Rio Grande Water Plan contains Recommendations, including:

*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.

Not meant to be a limiting factor in any way, questions were included on the agenda (1) to stimulate ideas and thoughts while speakers provided insights into the issues around adjudication, and (2) to initiate the plenary discussion to consider recommendations we might make to reduce the adversarialness of the process as well as the protracted nature as currently practiced.

Questions we might consider:

What Should We Do? What Recommendations Can We Make?

For adjudication in our region:

- \* how do we minimize the time? the cost?
- \* what suggestions would we make?
- \* what steps or process might we recommend?
- \* what should be done – when and by whom?

## Lucy Moore's Notes

What we heard during the presentations (possible ways of improving the way adjudications currently work):

Rule Changes to current adjudication process

- need to create a template for clear, more streamlined process

Consider Statewide Water Court

- statutory change needed

Use existing procedures:

- Partition Final Decree
- Forfeiture
- Deal with the intergovernmental –rights and conflicts first, then the individuals

Provide clear, timely education for water users before adjudication begins

Allow, encourage community leaders to take charge without lawyers

- Leaders will need experts for certain tasks, but need to make decisions about own future

Institute an Ombudsman Program, like the one underway at the Utton Center

Facilitate shortage sharing agreements

Help, enable water users within a basin to learn about each other  
-- take field trips, learn first hand about the issues facing your neighbors

Recommendations suggested by participants during afternoon discussion:

Conduct segmented adjudication based on watersheds  
- could also be educational vehicle

Adjudication should review watershed condition, identify corrective action needs

Undertake "true" conservation -, not just reallocation  
- consider tithing to the natural system

Understand that valuation includes more than economics Facilitate agreements first, use the legal suit later as pro forma

Need less top-down system  
- more micro-management of water systems  
- community administration association modeled on acequias and other community based models

Don't ignore 900 pound gorilla(s) – Albuquerque and Rio Rancho  
—significant impact on groundwater from transfer of rights

Consider the Las Vegas, New Mexico model to stop domestic water hookups

Improved transfer process:

Tie water to land

-- Transfers - compute exactly impacts to groundwater (recharge, effluent, evaporation, etc.)

-- Emphasize, use "public welfare" concept / statement (OSE seems to ignore it)

Three items could be included amid any public welfare statement:

(a) that public welfare requires enforcement of priority administration, and

(b) that public welfare requires purchases of water rights only from willing sellers, and

(c) that public welfare requires no fraudulent sales of water rights (i.e., of unadjudicated rights).

-- Re-evaluate geographic and other criteria for transfers - wet / paper conundrum

-- Limit eminent domain

Impact county zoning codes

- Plats must include acequia easements, boundaries

Help decision-makers to have the courage to institute moratoria, and other protective steps

Need for increased focus on education / awareness of both water issues in general and the adjudication process

Courts need template for the adjudication process

Build flexibility into process of adjudication, including ranges of numbers

Support HJ Resolution 6 – ballot to make Water Trust Fund (now has \$40 million) a constitutional entity

Emphasize, encourage community leadership

-- Need lawyer expertise, but don't let them rule the roost

Enforce conservation

-- No ornamental lawns, minimal landscape - outdoor watering is a large part of urban water use; should have low priority.=

# exchange rate based on public welfare

Explore the potential to use the UNM Dispute Resolution Center to help resolve water conflicts

Consider the question: Could the Water Assembly sue to start adjudication process?

Work to improve irrigation efficiency system (MRGCD)

Work to decrease waste of urban water

Look at lessons from Pueblos and other traditional users

- groundwater for human consumption only at Zia Pueblo, for instance

Understand the demographics of the region

-- Three-fourths of increase in population immigrate from outside

- businesses should hire locals

- need strong land use codes

More Community Conversations (ex: = adjudication workshops, strengthen transfer criteria)

Support cost of settlements with tribes

- multi-million \$

- need support from public

Consider lessons learned from other states?

### Other

Water Assembly Annual meeting should include progress reports on a variety of issues

Water Assembly could offer or support a College course (perhaps through UNM Continuing Education) on water issues