

**WATER AND NATURAL RESOURCES COMMITTEE
and
COURTS, CORRECTIONS AND JUSTICE COMMITTEE
Truth or Consequences
August 27, 2012**

State Engineer Scott A. Verhines, P.E.

**A Decade of Innovation in New Mexico's Legal Institutions
and Processes Related to Water Rights and Adjudications**

- 1. Implemented WRATS database to support and track subfile work (1996-2000)**
- 2. Deployed GIS and GPS technologies in hydrographic surveys (1997-2000)**
 - Digital surveying, drafting, and data storage tools more flexible, powerful, and accurate
 - Individual subfile maps clearly communicate survey findings to defendants
- 3. Ordered mandatory mediation of subfile disputes in Lower Rio Grande adjudication (1998)**
- 4. Authorized special procedures for joinder and service of defendants in LRG (1999)**
- 5. Employed OSE Acequia Liaison to assist acequia parciales (2000-present)**
- 6. Integrated OSE hydrographic survey staff into adjudication bureaus (2003-2004)**
- 7. Conducted working sessions to avoid resource conflicts in three federal court adjudications (2002-2006)**
- 8. Developed "Chama Model" adjudication and survey processes (2002-2005)**

Public notice of pending adjudication proceedings, public meetings, field offices, and field rechecks reduce defaults and minimize adversarial aspects of adjudication suits
- 9. Established New Mexico Water Courts (2003)**

Water Judges with expertise in water law provide specialized forums for non-adjudication water rights disputes
- 10. Provided online public access to court filings in San Juan adjudication (2004)**
- 11. Created Joe Stell Water Ombudsman Program (2005)**
- 12. Negotiated settlements resolving longstanding water right disputes on the Pecos River and the water right claims of the Navajo Nation and five Pueblos (2000-2006)**
 - Pecos Settlement
 - Navajo Nation Settlement
 - Taos Pueblo Settlement
 - Aamodt Settlement (Pueblos of Nambé, Pojoaque, Tesuque, and San Ildefonso)
- 13. Created Indian Water Rights Settlement Fund, NMSA 1978, §§ 72-1-11, -12 (2005)**
- 14. Developed show cause procedure with single round of notice to simultaneously resolve all priority dates in a section of the Chama adjudication (2007)**

15. Provided State funding through Acequia and Community Ditch Fund to assist acequias in litigation and negotiations involving Indian water right claims (1988-present)

But recently ACDF grants also have been used to fund activities opposed to the State's adjudication efforts

16. Adopted Rules of Civil Procedure designed for water rights adjudication suits (2007)

- Annual Working Session between State and Courts, Rule 1-071.3 NMRA
- Service and joinder of defendants by adjudication sections, Rule 1-071.1 NMRA
- Stream System Issue and Expedited *Inter Se* Proceedings, Rule 1-071.2 NMRA

17. Appointed single Adjudication Judge for State Court adjudications (2009)

18. Conducted public forums and issued report on adjudication processes for SJM 3 (2009)

- Most forum participants support existing adjudication processes and are concerned about consequences of changes
- Most participants are more concerned about fairness and accuracy in adjudications than speed

19. Implemented and refined scalable “adjudication by sections” approach (2006-present)

- Complete adjudication of a geographic section before initiating a new section
- Closely coordinate hydrographic survey and adjudication work to adjudicate rights promptly after survey
- Focus and prioritize the State's available technical and legal resources
- Improve communication and interaction with water right claimants and de-emphasize litigation

20. Streamlining process for recognizing licensed water rights in Animas adjudication (2012)

Procedural order provides separate track for water rights previously licensed

21. Implementing “rolling *inter se*” in Animas adjudication (2012)

Procedural order combines resolution of subfile disputes and *inter se* objections into single hearing

**Areas to Evaluate for Potential Future Improvements
to Water Rights Adjudication Processes**

1. Expand to all counties with active adjudications online public access to County Assessor and County Clerk records
2. Expand to all adjudication suits online public access to court filings
3. Expand use of mediation to resolve subfile disputes
4. Streamline the adjudication of *de minimis* uses
Domestic wells Stock wells Stock ponds
5. License water rights in advance of hydrographic survey
6. Further streamline process for recognizing licensed water rights in adjudication decrees
7. Streamline judicial processes for resolving disputed questions of law