



## ***Texas vs. New Mexico and Colorado***

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In January 2013, Texas submitted a Motion for Leave to file Complaint against New Mexico and Colorado in the United States Supreme Court. Texas is asking the Supreme Court to order New Mexico to send more Rio Grande water to Texas.

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### **Texas is asking the Supreme Court to take it's case against New Mexico on the waters of the Rio Grande:**

- Texas alleges that New Mexico has harmed them by allowing “unlawful diversion of surface water and groundwater” between Elephant Butte Reservoir and the New Mexico-Texas state line;
- Texas alleges New Mexico is making “novel” claims in two New Mexico court cases;
- Texas complains that New Mexico has refused to comply with its obligations under the Compact to deliver Texas’ allocation of water to the New Mexico-Texas state line.
- Texas argues that the Rio Grande Compact was intended to freeze all of New Mexico uses in the Lower Rio Grande as of 1938.
- Texas falsely stated that they had no choice but to go to the Supreme Court because New Mexico had refused to negotiate.

### **New Mexico defends, arguing the case is not appropriate for the United States Supreme Court:**

New Mexico asserts that the Texas’ claims are not truly Compact based claims, but arise from an operational dispute about the Rio Grande Project. Those issues are before the Federal District Court in New Mexico and the Adjudication Court in New Mexico. Those cases should be allowed to proceed;

There is no New Mexico-Texas state line delivery obligation.

New Mexico asserts that Texas’ arguments rely upon faulty assumptions that the Pecos River Compact and the Rio Grande Compact are similar in these requirements;

For example, the Pecos River Compact states “New Mexico shall not deplete by man’s activities the flow of the Pecos River at the New Mexico-Texas state line below an amount which will give to Texas a quantity of water equivalent to that available to Texas under the 1947 condition”; and

The Rio Grande Compact does not have a “1938 condition”. A purpose of the 1938 Rio Grande Compact was to free New Mexico and Colorado up for growth and development.

# The Rio Grande Compact





# *State of New Mexico vs. United States Bureau of Reclamation*

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New Mexico's lawsuit is intended to prevent a federal take over of our water resources. New Mexico will continue to manage and control its waters rather than just to trust the federal government to act in our best interest.

Las Cruces, Santa Fe, and individual families will retain their ability to plan ahead, and New Mexico will be able to continue to store water in upstream reservoirs.

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## *The 2008 Operating Agreement*

In 2008, Reclamation obligated Elephant Butte Irrigation District (EBID) and El Paso Water Improvement District #1 (EP#1) into a 14 page Operating Agreement that violates several federal laws including:

- The National Environmental Policy Act (NEPA);
- The Water Supply Act; and
- The Administrative Procedures Act.

## *Harms to New Mexico*

The harms New Mexico endures in the Lower Rio Grande (Las Cruces, Hatch, Mesilla) include:

- Lost aquifer recharge;
- Lost surface water allocation and storage in Elephant Butte;
- Lost renewable supply of water for farmers;
- Lost sustainable water supply for the City of Las Cruces and other communities;
- Depletion of New Mexico's aquifer supporting 200,000 people.

The Operating Agreement obligates Elephant Butte Irrigation District (EBID) to pay for any reductions in the efficiency of the project. Therefore EBID pays for the impact of New Mexico AND Texas groundwater pumping.

Reclamation's 2008 Operating Agreement led to a 170,000 acre-feet per year loss for New Mexicans.

## *New Mexico's Efforts For Resolution*

New Mexico worked repeatedly with EBID and other water users in the Lower Rio Grande Valley to amend the 2008 Operating Agreement to protect our water but had no success.

## *Reclamations Releases*

### *Rio Grande Compact Credit Water*

In 2011, Reclamation also released some of New Mexico's Rio Grande Compact Credit Water without our permission. New Mexico reached out to Reclamation to correct it's mistake. Reclamation refused and said they would do it again.

## *New Mexico Forced to Sue*

In 2011, New Mexico was forced to file suit against Reclamation in Federal District Court in 2011 to protect New Mexico's lawful entitlement and use of waters in the Rio Grande Basin and to prove that Reclamation cannot release New Mexico's Rio Grande Compact Credit Water without our approval.

Reclamation, EBID, and EP#1 all filed motions to dismiss New Mexico's claims. EBID also asked the court to add a claim against the Reclamation that they illegally released water to Mexico in 2012 too early and caused losses to the Project.

Colorado joined New Mexico as amicus curiae in our motion for Partial Summary Judgment on the Rio Grande Compact Credit Water issue.

# The Rio Grande Project

